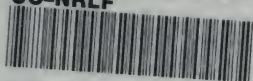


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ADMINISTRATION PRACTICE IN INDIA

INCLUDING A HISTORY OF THE OFFICE OF ADMINISTRATOR-GENERAL OF
BENGAL AND A COLLECTION OF FORMS IN USAGE UNDER THE
ADMINISTRATOR-GENERAL'S ACT, THE SUCCESSION
ACT, ETC., IN ADMINISTERING ESTATES
OF DECEASED PERSONS IN INDIA.

BY

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PREFACE.

THE office of the Administrator-General grew out of the exigencies of the Mercantile and Trading Community in Bengal, whose interests were safeguarded by the Charter establishing the Supreme Court of Judicature at Fort William in Bengal, dated the 26th March 1774. Its functions have been developed, and regulated, on lines which experience has shown to be necessary; and its history is an illustration of the adaptation, and modification, to suit local circumstances, of those principles which underlie the law of trusts, and the law affecting the administration of the Estates of deceased persons.

Under the Charter establishing the Supreme Court of Judicature at Fort William (dated 26th March 1774), that Court was empowered to exercise such Ecclesiastical Jurisdiction in Bengal, Behar and Orissa, over British subjects, as was exercised in the diocese of London, and to that end the Court was authorized :—

1. To grant Probates of the last Wills of all, or any, British subjects, dying within the three provinces of Bengal, Behar and Orissa.
2. To commit Letters of Administration of the goods, chattels, credits and other effects of such British subjects who should die intestate within those provinces, or who should not have named an Executor *resident* in such district; or when the Executor being duly cited should not appear, and sue for such Probate, annexing the Will to such Letters of Administration, where such person should have left a Will without naming an Executor.

3. To sequester the Estates of deceased person.
4. To allow and reject accounts.
5. To reserve power to grant Probate when an Executor appeared after Letters of Administration had been granted.
6. To grant administration to lawful next of kin ; and in case no such person was residing within the jurisdiction or being duly cited did not appear, to the principal creditor, or such other creditors as should be willing ; and for want of any creditors then to such person who should be thought proper.

(*Vide* Clause XXII of the Charter.)

Attention has also to be given to the Ecclesiastical Rules dealing with the various forms of petitions that should be presented :—

(*Vide* Rules 1 to 2 under heading Probate ; Rules 1 to 12 under heading Administration.)

(Smoult and Ryan on Rules and Orders of the Supreme Court.)

The estates which fell to be administered by the Ecclesiastical Registrar may be taken to have come under three heads :—

1. Estates of Intestates to which the Registrar was entitled to administer as of right ;
2. Estates of which the Registrar had been appointed Executor by Will, or where he had been requested to administer under power-of-attorney.
3. Estates of Hindus and Mahomedans, the administration of which had been granted to the Registrar, not as a matter of right, but at the instance or request of persons interested in the estates.

The first statute which dealt with the powers of the Ecclesiastical Registrar to obtain administration to estates was 39 and 40 Geo. III, C. 79. In order to understand the position of the Registrar under this statute, attention is directed to Sec.

XXI of the Act which reads as follows:—"And whereas great inconveniences have arisen from the practice of granting Letters of Administration by the said Supreme Court of Judicature at Fort William aforesaid in cases where the next of kin or any of the creditors of the deceased do not apply for the same, to persons calling themselves friends of the deceased, be it therefore further enacted that from and after the first day of March which will be in the year of our Lord one thousand eight hundred and one, whenever any British subject shall die intestate within either of the presidencies of Fort William, Fort Saint George or Bombay, or the territories subordinate to either of the said presidencies or to become subordinate thereto and on return of the citation to be issued from the proper Ecclesiastical Court, no next of kin or creditors shall appear and make out their claim to the administration of the effects of the intestate deceased to the satisfaction of the said Court, it shall and may be lawful for the Registrar of such Court, and he is hereby required and directed to grant such letters of administration ad colligenda as to such Court shall seem meet, by virtue whereof such Registrar shall collect the assets of the deceased and shall bring them for safe custody into such Court and account for them regularly in like manner as is now by law provided in cases where assets are vested in the hands of any officer of the Court under or by virtue of the equitable jurisdiction of any such Court."

It was not long before it became necessary to further develop the law on the subject. To this end Stat. 55, Geo. III, Cap. 84, was enacted which after reciting the Act referred to in the previous para. and reciting that such Act did not expressly provide for the cases of executors, or administrators, or persons entitled as thereafter mentioned, not resident within the jurisdiction who might have appointed attorneys; and that it was doubtful whether the Courts were not required under the previous Statute to grant letters ad colligenda, or ordinary Letters of Administration, to their Registrars in preference to granting them to the Attorneys of persons entitled to such grants, it was enacted that, if the

persons so entitled had granted powers-of-attorney, the attorney appointed thereby would have a preferential right to the Registrar. It also provided for the revocation of grants to the Registrar in such cases (*vide* Secs. II, III and IV of Stat. 55, Geo. III, Cap. 84).

By Sec. 5 of the same statute it was provided that the Registrar when appointed administrator under the two Statutes under review was bound to keep the accounts of each estate committed to him in a book which was to be open to the public. He was also bound to file in Court periodically true and perfect schedules of all sums of money, bonds or other securities received on account of each estate remaining under his charge. There was no such restriction imposed upon private administrators; and in fact there is no such restriction even now imposed upon private administrators. It will thus be observed that the Registrar had not by any means such a monopoly of administration of estates as was at one time considered to be the case; but, as has already been stated, private administrators were not by any means subject to similar restrictions in regard to the question of the method of keeping and filing their accounts, etc. The precautions, however, above referred to proved to be quite inadequate.

Gross irregularities and abuses were discovered in respect of estates under the charge of Sir T. E. M. Turton, who held the office of Ecclesiastical Registrar, with the result that an order was passed by the Supreme Court on the 8th March 1848, appointing a Committee to enquire into the working of his office. The Committee so appointed, duly enquired into the working of his office, and presented their report on the 29th January 1849. It is not proposed to deal with this report, beyond observing that it proved that the Registrar had abused his powers; that he had employed the moneys in his hands in trade, and that heavy losses had been incurred.

The Government of India, in view of the disclosures above alluded to, considered it advisable to take steps to protect the

interest of the beneficiaries and next of kin of persons dying intestate, as well as of those who left Wills, and after some consideration it was resolved that a public official should be appointed, who would protect the property of persons dying in cases where no steps were taken by the next of kin (if any), or where the next of kin were resident out of British India. It was also considered advisable to give such official power to deal with the estates of persons who had left Wills, where either the beneficiaries under the Will were resident out of British India, or where they, or the executors named, took no steps to protect the estate. After carefully considering the position of matters, the Government of India passed Act VII of 1849, which may be termed the first Administrator-General's Act.

This Act recites "that it was expedient to disconnect the administration of the estates of British subjects dying intestate in the presidency of Fort William in Bengal from the office of the Ecclesiastical Registrar of the Supreme Court." On the passing of this Act, the office of the Ecclesiastical Registrar was in effect abolished, his duties being made over to the Master of the Supreme Court, while the estates of deceased persons then in the hands of the Ecclesiastical Registrar were made over to the Administrator-General of Bengal appointed under the Act of 1849. In order to provide against any repetition of such fraud or misconduct as had been previously committed, many restrictions and safeguards were introduced by the Act, the most important of which was that the person holding the office was strictly prohibited from trading, or in fact acting in any manner which would in the slightest degree be likely to furnish an opportunity of dealing with moneys under his control for his private purposes, or otherwise. It was also provided that his accounts were to be the subject of strict scrutiny by the Auditors of the Government of India, who were bound to submit a report to the Government every six months as to such accounts, and moreover, the person holding such appointment was liable to be summarily proceeded against on petition by the Government of India.

It is not intended to deal here in detail with the provisions of the Act, now in course of consideration, but attention may usefully be directed to the following provisions, while those interested in the subject may be usefully referred to the Act itself. The special provisions to which attention is here drawn are :—

1. That the Act only related to the Presidency of Fort William ;
2. That all administrations granted to the Registrar, and estates vested in him, were transferred by operation of law to the Administrator-General ;
3. That the Registrar for the time being of the Supreme Court was to be the first Administrator-General ;
4. That all future Administrators-General were to be appointed by Government ;
5. That the Administrator-General was not to be deemed an officer of Court ;
6. That he was to give security ;
7. That he was to be entitled to a commission of 3%, out of which he was to pay establishment, etc. ;
8. That no private executor, or administrator, was entitled to charge commission ;
9. That accounts were to be audited by Government auditors who were to report to Government ;
10. That the Administrator-General was authorized to grant a certificate (Secs. 20, 21 and 22).

By Act II of 1850, which was passed on 11th January 1850 the Act of 1849 was extended to Madras and Bombay ; it was provided that the rate of commission charged was not to be the same ; that the Administrators-General of these two provinces were not to cease to hold the office of Ecclesiastical Registrars ; and by Section IV of the Act that the Administrators-General were strictly prohibited from trading, etc.

One provision of the Act of 1849 which gave rise to a great deal of controversy was that relating to commission. The

Administrator-General of Bengal was allowed a commission of 3%, but by the Act it was strictly prohibited that any other person should charge a commission. It appeared that the Ecclesiastical Registrar as well as private Administrators had previously been permitted to charge a commission. This was obviously opposed to the general rule of law which forbids an executor, or administrator to make a profit. It was thought desirable to deter agency houses, but although there was this provision in the Act, it practically remained a dead letter. In fact, matters went to such an extent that the Administrator-General in 1878, at the instance of Government, took the opinion of the Advocate-General, who in effect advised that any private executor or administrator who charged or retained commission was indictable for criminal breach of trust. Under the directions of the Government the Advocate-General's opinion was published in the Gazette.

Subsequent Memorials were presented on the above subject, but in the year 1882 the Government of India, after further consideration on the subject, decided that the provision in question which had been retained in all the Acts dealing with the office of Administrator-General should be repealed, and as a matter of fact, Sec. 56 of Act II of 1874 has been repealed by Sec. 4 of Act V of 1902, which section also gives the Court power to remove any private executor, or administrator, and to provide for the succession of another person ; the same section also provides that no private executor or administrator is entitled to a higher rate of commission than the Administrator-General as fixed by Act II of 1874.

It will now be convenient to go back and deal with the Acts that have from time to time been passed. As already stated, Act VII of 1849 was extended to Madras and Bombay by Act II of 1850.

This Act remained in force until the year 1855 when a further Act was passed, being Act VIII of 1855, which repealed both the last mentioned Acts.

The most important provisions of the Act of 1855 may shortly be stated as follows :—

1. The appointment of an Administrator-General in each presidency ;
2. That the Administrator-General should not be considered an officer of the Supreme Court ;
3. That all *Letters* of administration granted by the Court at Fort St. George to the Ecclesiastical Registrar *should vest* in the Administrator-General ;
4. That every Administrator-General should give security ;
5. That no Administrator-General should give any bond in cases of administration ;
6. That the Administrator-General was to have a preferential right over creditors or friends ;
7. That if no administration was applied for within one month from date of death of the deceased, the Administrator-General should apply for administration to estates whose value exceeded Rs. 500 ;
8. Courts were given powers to direct the Administrator-General to be placed in possession of estates under circumstances set out in Sec. XII.
9. Power was given to the Administrator-General to grant certificates in cases where the value of the estate did not exceed Rs. 500 ;
10. District Judges were also directed to report deaths. (Sec. LIV).

Attention is drawn to the provisions of the Act itself, and it will be seen therefrom that every precaution was taken to protect estates. It is important here to call attention to Sec. 51 of this Act which provided for the disposal of certain funds in the hands of the Administrators-General of Madras and Bombay. This section does not, it will be noted, apply to the Administrator-General of Bengal. No reason is

disclosed for this omission, but the defect, if it can so be called, was subsequently rectified when the Act dealing with the transfer of Government Securities and moneys in High Courts came to be passed. That Act (XXV of 1866) was passed on the 11th July 1866, and provides for the transfer of funds lying in Courts unclaimed for a period of 20 years. The preamble is as follows :—“ And whereas it is expedient that the net proceeds of all estates under the order of the Supreme Court of the Straits Settlements or in the official charge of the Administrator-General of Bengal, and now or hereafter appearing from the official books and accounts to have been in his custody for a period of 15 years or upwards without any claim thereto having been made, and allowed during that period, should be transferred to Government.”

The Act of 1855, and the aforesaid proviso of Act XXV of 1866 remained in force until the year 1867, when a further Act was passed dealing with the office of the Administrator-General. This was Act XXIV of 1867, which received the assent of the Governor-General on the 22nd March 1867, and which made various changes in the law, the most important of which may be noted as follows :—

- (1) It defined what may be termed the Jurisdiction of the Administrators-General of Bengal, Madras and Bombay, respectively ;
- (2) It provided that the Administrator-General should be a member of the Bar of England or Ireland, etc. ;
- (3) That the Administrator-General was not to be deemed an officer of the High Court ;
- (4) That no Administrator-General was to hold the appointment of Ecclesiastical Registrar, nor were they allowed to hold any other post without the sanction of the Government of India, but any Administrator might be appointed the Official Trustee, and the Administrator-General of Bengal might also hold appointment as Receiver of the High Court ;

- (5) It was declared an offence punishable under the Penal Code for any Administrator-General to trade, etc. ;
- (6) The Administrator-General was given a prior right over creditors, legatees (other than a universal legatee), or a friend ;
- (7) The limit of Rs. 500 fixed by Sec. XI of Act VIII of 1855 was increased to Rs. 1,000.
- (8) The Administrator-General was given power to deal with the estates of soldiers and sailors subject to the Articles of War ;
- (9) Provisions were made for the transfer of estates by private executors or administrators to the Administrator-General of any of the Presidencies ;
- (10) The Administrator-General was given power to grant certificates in cases of estates not exceeding Rs. 1,000 in value, and he was also empowered to take formal charge of such estates ;
- (11) The provision as to the transfer of assets to Government contained in Act VIII of 1855 was by Sec. LIX of the present Act extended to all three Presidencies ;
- (12) Power was given to the Government of India by Sec. LXIV to appoint a Deputy Administrator-General.

Before passing on to the Act which is at present in force, reference may be made to the provisions of the following Acts :—

- (1) Act XXVI of 1855.
- (2) Act XXVI of 1860.
- (3) Act IV of 1865.
- (4) Act XXV of 1866.
- (5) Act XXV of 1866.
- (6) Act XIX of 1869.
- (7) Act V of 1870.

The first of the above Acts related to the payments of small deposits in Government Savings Banks to the representatives of the deceased depositors, and by Sec. 1 power was given to the Bank to pay deposits not exceeding Rs. 500 without the production of probates, etc., as therein provided, and the Bank had power to take security, if they so desired, and the Secretary was also given the power to administer oaths, but nothing in the Act applied to payment of money in Government Savings Bank belonging to the estate of any deceased European officer or soldier dying in the service of the East India Company, or to the estate of any officer, seaman, or person dying in the marine service of the Company, or to a person who was a deserter from such services.

Act XXVI of 1860.—This Act, which amended Act VIII of 1855 provided for the administration of the estates of soldiers, etc., and also gave power to administer estates without administration in cases falling within Sec. 43 of 1855; it also dealt with the power of appointing an Acting Administrator-General.

The above provisions were, as will be seen, incorporated in the Act of 1867, by which Act this Act was repealed.

Act IV of 1865.—This Act amended Act VIII of 1855, and by Sec. 2 thereof, it was declared that the 26th Section of Act VIII of 1855 should not apply to cases in which the property of an officer or soldier dying in service should come into the hands of the Administrator-General under the 9 or 12 sections of the Regimental Debts Act, 1863; further, that the Administrator-General was only entitled to a commission of 3 per cent. on the gross amount coming to his hands.

Act XXV of 1866.—This Act, as already pointed out, supplied an omission in the Act of 1855.

By the Act of 1867, Sec. 4 of Act XXVI of 1855 was repealed, and the whole Acts XXVI of 1860 and IV of 1865 were also repealed.

Act XIX of 1869.—This Act amended the definition of the Presidency of Madras as given in the Act of 1867, and the

words "Hyderabad Assigned Districts" were omitted; the definition of the Bombay Presidency was also amended by including the words "and also, so far as regards British subjects, the Hyderabad Assigned Districts." The reason for this was that the facilities of communication between Bombay and the District in question were greater.

Act V of 1870.—This Act gave power to the Court to deal with the costs of petitions under Act XXV of 1866, and the provision relating to the Administrator-General of Bengal was repealed by Act II of 1874.

We now come to the Act in force, namely, Act II of 1874.

Act II of 1874.—This Act was presented at the Council which met at Government House on the 27th January 1874; it recited that having regard to the fact of certain amendments, and also to the fact that the Act of 1867 had already been amended by Act XIX of 1867 and Act V of 1870, it was thought advisable to repeal the then existing Acts and re-enact them, so as to have the law conveniently within the compass of one Act. The Act again came up for discussion on 10th February 1874, when it was discussed, and finally received the assent of the Governor-General. The report of the Select Committee, which will repay perusal, will be found in the supplement to the *Gazette of India*, dated January 31st, 1874, p. 101.

The Act, as it was originally framed, has subsequently been amended from time to time, and attention is drawn to the following Acts :—

- (1) Act I of 1879.
- (2) Act IX of 1881.
- (3) Act II of 1890.
- (4) Act VII of 1901.
- (5) Act V of 1902.

Act V of 1902.—By the provisions of this Act, the office of the Administrator-General of Bengal was taken over by the

Government of India, and the most important provisions in this Act may be stated to be as follows :—

- (1) That the Administrator-General and the Deputy Administrator-General should be remunerated by fixed salaries.
 - (2) That the Government of India were to be responsible for all the civil liabilities of the Administrator-General, thus affording the public an additional guarantee.
 - (3) Power was given to the High Court to give directions in connection with the management or administration of estates (*vide* Sec. 5).
 - (4) Power was given to the High Court to cancel grants to private administrators (*vide* Sec. 4).
 - (5) Section 256 of the Indian Succession Act was amended by exempting the constituted attorney of an absent executor from entering into the usual security bond.
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GENERAL NOTES.

REGARDING PROBATE AND ADMINISTRATION.

1. Applications for Probate must be made by petition duly verified by the petitioner, who should be resident within the Jurisdiction of the Court at the time of the application.

2. In cases of Probate or Letters of Administration with copy of Will annexed, the original Will must be annexed to the petition, and if the attestation clause of the Will be in order, there must be a declaration at the foot of the petition by at least one of the attesting witnesses to the Will (Indian Evidence Act I of 1872, Secs. 68 and 69).

3. The form of declaration should be as follows :—

I the undersigned, one of the attesting witnesses to the last Will and Testament of the deceased abovenamed, do hereby declare that, I was present at the time the testator abovenamed signed his last Will, and the signature
..... at the foot of the said Will is in the proper handwriting of the said deceased, and was affixed in my presence and in the presence of the other attesting witness, both of us signing in the presence of the deceased.

4. If the attestation clause be not in order (*vide* Sec. 50 of the Indian Succession Act), an affidavit is required by at least one of the attesting witnesses, setting out the circumstances under which the Will was signed, and this must also be the case where the deceased merely puts his mark.

5. If the deceased had a Scotch domicile, a Will signed by the testator is good, and no witnesses are necessary (Paterson's English and Scotch Law, Sec. 668, p. 222 ; Bell's Law of Scotland ; in the goods of Elliot, I. L. R., 4 Cal., 106 ; in the goods of

A. H. Walker, 6th May 1899 ; goods of G. Crammond, 25th August 1899. Goods of Mackenzie Kennedy—Grant to Administrator-General. Goods of William Gorrie—Grant to Administrator-General granted 9th December 1903.

6. Probate cannot be refused to an insolvent executor, but the Court may demand security (Williams on Executors.)
 Act V of 1881, Sec. 78.

7. Probate or administration cannot be granted to a married woman without the consent of her husband (Sec. 189, Indian Succession Act).

8. Probate can be granted to an executor according to the tenor or by implication—

1. Belchambers' Practice, 431-444 (c).

9. When the Will is written in a foreign language or in the vernacular, a translation must be annexed to the petition by a translator of the Court ; but if there be no translator, a translation can be put in by a person competent to translate, but in such cases an affidavit must be put in by the translator showing his knowledge of the particular language (Rule 741).

10. In cases of administration, the petition should set out date of death, particulars of next-of-kin, giving address where possible ; and if they be absent from jurisdiction, the names of their agents, if any, and the right of petitioner to apply for administration (*vide* Rule 742).

11. Under Act XI of 1899, a form of affidavit is prescribed as to assets, but the Administrator-General is exempt from filing such an affidavit (*vide*—; in the goods of Avdall, Vol. 8, *Calcutta Weekly Notes*, p. 298). It is, however, the recognized practice for him to follow the form of affidavit in the body of the petition for administration or probate (*vide* Form A).

12. When a widow applies for administration, the next-of-kin are entitled to citation ; and when next-of-kin apply, the widow is entitled to citation. If a brother applies for administration, the father is entitled to citation, and in such cases he is the absolute next-of-kin.

13. The Administrator-General is entitled to administration in preference to a creditor or a legatee other than a residuary legatee, and when a creditor applies, citation must issue to the widow, if any, to the next-of-kin, if resident within jurisdiction, or to their agents, if any, and to the Administrator-General, as well as a general citation.

14. In all cases where creditors apply, the petition should contain a statement how the debt arose and whether he holds any security, and no administration can be granted to a creditor where the debt arises from any balance or supposed balance of an open or unsettled account or where creditor holds security for the debt (Rule 745).

15. Where a constituted attorney of an absent executor applies for administration with Will annexed, and if the Will has already been proved in the United Kingdom or in a British Colony an exemplification of the Will should be annexed to the petition, and the power-of-attorney should be executed to the satisfaction of the Judge (a constituted attorney of an absent executor is now exempt from giving security, *vide* Act V of 1902). In goods of Primrose, I. L. R., 15 Cal., 776 ; In goods of Henderson, I. L. R., 22 Cal., 491 ; In goods of Salimahu Fatima *v.* Koylashpoti Narain Singh, I. L. R., 17 Cal., 903.

16. In cases of administration (except in cases where the applicant is the Administrator-General), a Bond has to be entered into by the Administrator with two approved sureties for the due administration of the estate, and these bonds have to be signed in the presence of the Registrar of the Court.

17. In cases where caveats are filed, the rule requires grounds by affidavit in support to be filed within *eight* days after filing caveat, and no such affidavit can be filed after the expiry of such eight days without leave of the Court.

18. Either party, where an affidavit has been filed in support of a caveat, may, after eight days from entry of caveat, apply for the matter to be set down for argument of caveat, and on the matter coming on for hearing, the Court may order the matter to

be set down as a contentious cause, and in such cases an order is drawn up (*vide* Rule 751).

19. When an estate is under the value of Rs. 2,000, no Court fees are payable upon the petition, etc., but the petitioner must give an undertaking to pay the Court fees in case the estate thereafter exceeds Rs. 2,000 in value (but as to this *vide* Rule 759).

20. No duty or Court fees are payable when an estate does not exceed Rs. 1,000 in value, but an undertaking, as above, must be given, *i.e.*, to pay duty if estate exceeds Rs. 1,000, and to pay Court fees if it exceeds Rs. 2,000.

21. In all cases of Probate or Letters of Administration, the same shall be drawn up with effect limited to the Province of Bengal, but this does not apply to the Administrator-General of Bengal.

22. In cases where an unlimited grant is applied for, an undertaking must be given to pay Court fee, etc., on any other assets than those disclosed by the petition and an undertaking to enter into a further bond (Rule 765).

23. Under the provisions of Act V of 1902, the Court has power to remove, discharge or suspend any executor or administrator and to appoint another. Goods of W. Lee, dated 30th March 1906—grant to Administrator-General.

24. Under Act XI of 1899, the Registrar of the High Court is bound to give notice of every application for Probate or Administration to the Collector of Stamp Revenue.

25. As regards the question of French Wills *vide* note to Rule 748 and also papers in the goods of Madame De La Harpe, administration granted to the Administrator-General of Bengal on the 9th day of August 1906.

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ADMINISTRATOR-GENERAL.

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FORM A.

PETITION FOR LETTERS OF ADMINISTRATION AS IN CASE OF
 INTESTACY BY ADMINISTRATOR-GENERAL
 OF BENGAL.

*In the High Court, etc.,
Testamentary & Intestate Jurisdiction.*

In the Goods of A. B., late of
and

In the matter of the Administrator-General's Act being Act II of 1874.

To

The Hon'ble Sir (*name of Chief Justice*) Knight, Chief Justice and his companions Justices of the said Court.

The humble petition of the Adminis-
trator-General of Bengal.

SEWETH,

1. That A B the deceased abovenamed who was a person not being a Hindu, Mahomedan, Parsi, Buddhist or Native Christian or a person exempted under the Indian Succession Act, 1865, Sec. 332, from the operation of that Act and who was late of _____ died to the best of your petitioner's information and belief at _____ on the _____ day of _____ 19____ intestate.

2. That your petitioner is informed and believes that the deceased left him (or her) surviving as his (or her) next-of-kin the following :--

(Here set out next-of-kin known.)

3. That your petitioner has no information at present as to who are the next-of-kin of the deceased.

(The above para. should be inserted in lieu of para. 2 if there be no information as to next-of-kin.)

4. That the deceased has left property within the Presidency of Bengal (and within the jurisdiction of this Hon'ble Court) to be administered to.

5. That no person has applied in such Presidency for Probate of any Will or Letters of Administration to the property and credits of the deceased and more than one month has elapsed since the date of the death of the deceased.

6. That the amount or value and description of the assets which are likely to come to your petitioner's hands and particulars of the debts so far as at present known payable out of the estate are set out in the under-written Annexures A and B and the amount of such assets after taking into account the liabilities will be Rs. or thereabouts.

ANNEXURE A.

(1.) Cash in the house Rs.

(2.) Cash at the Banks Rs.

(Here set out particulars of all cash balances and fixed deposits, etc.)

(3.) Household goods Rs.

(Give estimated value, or if they have been valued, the value so given.)

(4.) Wearing apparel Rs.

(Give value as far as possible.)

(5.) Books Rs.

(Give value as far as possible.)

(6.) Plate, jewels, etc. Rs.

(Give value as far as possible.)

- (7.) Property in Government Securities transferable at Public Debt Office ... Rs.

(It is advisable to adopt the following as far as possible.)

$3\frac{1}{2}\%$ G. P. Note No.	of the		
loan of	for	...	Rs.
Market value of above is	...	...	Rs.
Interest due on above from			
to	...	...	Rs.

- (8.) Immoveable property consisting of

(In regard to properties which are assessed by the municipal assessment, the value should be 20 years' municipal assessment and in case where there is no assessment, the area and market value should be given.) The following may be taken as example :

- i. House and premises situate at No.

the annual assessment of which is Rs.

20 years purchase ... Rs.

Rents due for above ... Rs.

- ii. Land situate at the

area of which is said to be

The market value is ... Rs.

Rents due for above ... Rs.

(In each case rents that are due should also be given as shown above.)

- (9.) Leasehold property.

(It sometimes happens that a deceased is possessed of a leasehold interest which is of value, such as a building lease, etc. It is advisable to set out full particulars of the interest, whatever it may be.)

(10.) Property in Public Companies.

(It will be found more convenient to set out particulars in a tabulated form, *e.g.*)

10 Ordinary Shares in Co.,
of Rs. each, the present market
value of which is Rs. per share Rs.

The numbers of above are as follows :

(Here set out numbers.)

Dividends due on above Rs.

(The above will be found the most convenient form.)

(11.) Policy of insurance upon life Rs.

(State particulars of policy, *e.g.*, amount due on policy No. in A. B. Co.).

(12.) Money out on mortgage and other securities, such as bonds, mortgages, bills, notes and other securities.

(Here set out particulars of securities, etc.)

(13.) Book debts Rs.

(Under the Act the debts which are bad or irrecoverable need not be disclosed.)

(14.) Stock in trade Rs.

(Only estimated value is required to be given.)

(15.) Other property not comprised under the foregoing heads.

(This heading speaks for itself and under this head should be included such items as salary, commission, legacies, reversionary interests, etc.)

Total ... Rs.

Deduct amount shown in Annexure

B not subject to duty Rs.

Net Total ... Rs.

ANNEXURE B.

- (1.) Amount of debts due and owing from the deceased and payable by law out of the estate.

(Here set out particulars of debts known at the time of presentation of the petition.)

- (2.) Amount of funeral expenses ... Rs.

- (3.) Amount of mortgage incumbrances ... Rs.

(Here give particulars of any amount due on mortgage of immoveable properties or of any amount due to a Bank, etc., on securities of any Government Securities or Shares in Public Companies.)

- (4.) Property held in trust not beneficially or with general power to confer a beneficial interest.

(It is difficult to state how these are to be inserted. There are two ways of dealing with this : one is to include in Annexure A the particulars of the properties so held in trust and then again insert them in this head so as to get the deduction ; and the other method is to only insert them here ; in that case deduction cannot be claimed but it is useful for identifying properties held in trust.)

- (5.) Other property not subject to duty.

(The only particulars to be inserted herein are those which do not come under any of the foregoing heads.)

Total ... Rs.

(6.) That no intimation has been received by this Hon'ble Court from any other High Court or from any Court of any grant of Probate of any Will or Letters of Administration to the property and credits of the deceased abovenamed with effect throughout the whole of British India as appears from the certificate of the Registrar of this Hon'ble Court hereto annexed and marked "A."

(7.) That your petitioner has duly paid the two per cent *ad valorem* fee payable on the valuation of the property of the deceased as appears from the certificate of the Registrar hereto annexed and marked B.

(8.) That your petitioner is desirous of obtaining from this Hon'ble Court Letters of Administration of the property and credits of the deceased.

Your Petitioner therefore humbly prays your Lordships for an order that Letters of Administration of the property and credits of the deceased abovenamed as in case of intestacy be granted to your petitioner as the Administrator-General of Bengal. And your Petitioner will ever pray, etc.

Petitioner's Attorneys.

FORM B.

PETITION FOR LETTERS OF ADMINISTRATION WHERE THERE ARE ASSETS SITUATE EITHER IN THE BOMBAY OR MADRAS PRESIDENCY.

Heading, etc., same as in Form A.

Paras. 1, 2 and 3. (*Vide* Form A.)

4. Same as in Form A, but add the following after the word "to":—The deceased has also left assets situate within the Presidency of (Bombay or Madras as the case may be) as will appear

See Rule 765, Bel-
chambers' Rules and
Orders.

from Annexure A hereunder written and so far as your petitioner has been able to ascertain and is aware, there are no other property and effects than those hereinafter specified left by the deceased.

5. (*Vide* Form A).

6. (Ditto.)

Note.—The form of annexures will be the same but particulars of assets left in either of the Presidencies of Bombay or Madras should be set out under the proper heads).

7. (*Vide* Form A.)

8. (Ditto.)

9. Same as in Form A, but after the word “deceased” add the following :—Inasmuch as there are assets situate within the Presidency of (Bombay or Madras) your petitioner desires to have a grant throughout the whole of British India and he undertakes in case of its being afterwards found that there are other property and effects that he will pay the Court-fee payable in respect thereof.

Vide Rule 765, Bel-
chambers' Rules and
Orders

Your petitioner therefore humbly prays your Lordships for an order that Letters of Administration as in case of intestacy of the property and credits of the deceased may be granted to your petitioner as the Administrator-General of Bengal and your petitioner also prays that such grant may extend throughout the whole of British India, your petitioner hereby undertaking in case of its being afterwards found that there are other property and effects that he will pay the Court-fee payable in respect thereof.

And your petitioner will ever pray.

Petitioner's Attorneys.

FORM C.

PETITION WHERE THE ASSETS OF THE ESTATE EXCEED
RS. 1,000 IN VALUE BUT DO NOT EXCEED RS. 2,000.

Heading as per Form A.

Paras. 1, 2, 3. (*Vide* Form A.)

4. (This will have to be in accordance with facts, and if there are no assets in Bombay or Madras, it should follow para. 4 in Form A. If there be assets in Bombay or Madras, it should follow para. 4 in Form B.)

5. (*Vide* Form A.)

6. (Ditto.)

(Schedule as in Form A.)

7. (*Vide* Form A.)

8. That inasmuch as the gross value of the estate is less than Rs. 2,000, your petitioner is desirous that the fees payable on the grant and on the several proceedings which shall have been had in order to obtain the same may be remitted.

Vide Rule-758. 31 Jan 35
This only applies when
gross value of estate is
under Rs. 2,000.

Duty must be paid
where estate exceeds
Rs. 1,000 in value.

9. (*Vide* Form A, para. 8.)

10. (*Vide* Form A and Form B, para. 9.)

(The form to be followed will depend upon the question of there being any assets in either of the other two Presidencies. If not, para. 9 of Form A should be followed.)

Note.—If there are as- Your petitioner therefore humbly
sets in Bombay or Madras prays your Lordships for an order
Presidencies the under- that Letters of Administration as in
taking given in Form B case of an intestacy of the property
should also be given. and credits of the deceased may be
granted to your petitioner as the
Administrator-General of Bengal
and your petitioner also prays that

the fees of Court payable on such grant and on the several proceedings which shall have been had in order to obtain the same shall be remitted, your petitioner hereby undertaking to pay to the Secretary of State in Council or other party entitled thereto the fees of Court so remitted in case the estate shall hereafter be found to be of greater value than Rs. 2,000.

And your petitioner will ever pray, etc.

Petitioner's Attorneys.

FORM D.

PETITION IN AN ESTATE WHERE THE LIABILITIES EXCEED THE ASSETS.

Heading of Petition as in Form A.

1, 2, 3. (*Vide* Form A.)

4. (*Vide* Forms A & B according to circumstances of the case.)

5. (*Vide* Form A.)

6. (*Vide* Form A but after the letters "A & B" add the following "from which it will be seen that the liabilities exceed the assets.")

(The annexures to be as in Form A.)

7. (*Vide* Form A.)

8. That inasmuch as the liabilities exceed the assets no duty is payable in this estate as will appear from the certificate of the Taxing Officer hereto annexed and marked B.

In case of exemption of duty a certificate from the Taxing Officer is obtained and not the certificate of the Registrar.

9. Same as in Form A. (*Vide* also para. 9, Form B, if there are assets either in Bombay or Madras.)

If there are assets in Bombay or Madras the undertaking as in Form B, should be given.

Prayer of the Petition the same as in Form A, but add the following "and your Petitioner hereby undertakes to pay any duty that may be found payable upon completion of the administration of the estate.

And your Petitioner, etc.

FORM E.

PETITION FOR PROBATE BY THE ADMINISTRATOR-GENERAL WHERE HE IS EXECUTOR.

Heading of Petition as in Form A.

1. Same as in Form A leaving out the word "intestate."

2. That the deceased abovenamed duly made and published his last Will and Testament in writing in the English language and character bearing date the day of 19 whereof he appointed your Petitioner executor and which said Will is hereto annexed and marked A.

3. That the due execution of the said Will is proved by one of the attesting witnesses to the said Will as will appear from the declaration hereunder written.

4. *Vide* para. 4, Form A, and para. 4, Form B. (This will be in accordance with facts as to whether there are assets in any of the other Presidencies.)

5. (*Vide* para. 5, Form A.)

6. (*Vide* para. 6, Form A.)

7. (*Vide* para. 7, Form A.)

8. (*Vide* para. 8, Form A, para. 8, Form C, and para. 8, Form D.) (The form of this para. will depend upon the circumstances of the case as explained in Forms A, C & D.)

9. Your Petitioner is desirous of obtaining Probate of the last Will and Testament of the deceased abovenamed as the executor therein named.

Your Petitioner therefore humbly prays your Lordships for an order that Probate of the last Will and Testament of the deceased abovenamed be granted to your Petitioner in his office of the Administrator-General of Bengal and as the executor named in the said last Will and Testament.

And your Petitioner will ever pray,
etc.

Petitioner's Attorneys.

DECLARATION BY ATTESTING WITNESSES TO EXECUTION OF THE WILL.

I the undersigned one of the attesting witnesses to the last Will and Testament of the deceased abovenamed do hereby declare that I was present at the time the testator (testatrix) abovenamed signed his (her) Will, and the signature (A B) at the foot of the said Will is in the proper handwriting of the said deceased, and was affixed in my presence and in the presence of (name of other witness) the other attesting witness, both of us signing in the presence of the deceased.

Notes.

1. If the testator or testatrix has executed any Codicil or Codicils, reference should be made to these in para. 2, and such Codicil or Codicils must be annexed. It will also be necessary to get the declaration of one of the attesting witnesses to prove the execution of the Codicil or Codicils, as the case may be.

2. If it is required to obtain an unlimited grant, the statements in paras. 4—9 of Form B should be followed as also the

prayer to that form, but such prayer should of course ask for probate and not administration.

3. If the assets be under Rs. 2,000, paras. 4 and 8 and the prayer to Form C should be followed.

4. If the attestation clause to the Will or Codicil be in any way defective, the mere declaration as given above will not do, but affidavits by the attesting witnesses should be procured, and this course should also be adopted where the testator puts his mark, etc.

5. In cases where the attesting witnesses are dead, or it is difficult to obtain affidavits from them owing to absence from the country or otherwise, it is necessary to put in an affidavit explaining the circumstances, and to obtain an affidavit from some person who can speak to the handwriting of the deceased and to the handwriting of the attesting witnesses.

6. It sometimes happens that a Will is executed in duplicate ; in such cases both copies must be proved.

7. In case of the deceased appointing an executor in England or elsewhere for the purpose of dealing with his estate out of British India, no proof of the execution of the Will is required if probate is sought for upon an exemplification, but the exemplification must be annexed to the Petition, and a statement inserted in the Petition showing where the Will was proved, or in other words where probate was granted, and in such cases paras. 2 and 3 should be amended in accordance with facts.

8. It may here be added that in cases where the deceased has a Scotch domicile, a holograph Will can be admitted to Probate, and in such cases it is necessary to put in an affidavit showing (1) deceased's domicile to be Scotch, (2) that the Will in question is entirely in the handwriting of the deceased. (*Vide* In the goods of William Gorrie, where administration granted to the Administrator-General—date of grant 9 day of December 1903.)

9. The above procedure should also be followed in cases of French Domicile (*vide* In the goods of Madame de la Harpe administration granted to Administrator-General on 9 day of August 1906).

10. In cases coming under above heads, the statement in the Petition must be in accordance with the facts.

FORM F.

PETITION FOR LETTERS OF ADMINISTRATION WITH COPY OF WILL ANNEXED.

Heading same as in Form A.

1. Same as in Form A leaving out the word "intestate."
2. Set out fact as to deceased having left a Will or Codicil,

etc.

Note.—If executors appointed have renounced, it should be so stated and the original renunciation annexed. If executors are absent from British India it should be so stated. In fact, all particulars as to reason for the application should be given.

3. (See para. 3, Form E.)

Note.—If the Will has already been proved in another Court and an exemplification is being annexed, paras. 2 and 3 will require alteration in accordance with facts.

4. (*Vide* para. 4, Form A, or para. 4, Form B.)

5. (*Vide* para. 5, Form A.)

Note.—If the Administrator-General is applying at the request of the next-of-kin or at request of executor in England, this para. should be amended accordingly.

6. (*Vide* para. 6, Form A, and note to para. 6, Form B.)

7. (*Vide* para. 7, Form A.)

8. (*Vide* para. 8, Form A.)

9. Your Petitioner is desirous of obtaining Letters of Administration to the estate of the deceased abovenamed with

copy of the said Will annexed. (If there be any Codicils, these should be referred to.)

N.B.—If the grant is to be throughout British India *vide* Form B and prayer to that form.

Your Petitioner therefore humbly prays your Lordships for an order that Letters of Administration with copy of the said (and Codicil or Codicils) be granted to your Petitioner as the Administrator-General of Bengal.

And your Petitioner will ever pray, etc.

Petitioner's Attorneys.

DECLARATION AS TO EXECUTION OF THE WILL AS IN FORM E.

Note.

Attention is drawn to previous forms regarding statements, etc., to be inserted where (1) grant is to be unlimited, (2) where the estate is under Rs. 2,000 in value, (3) where debts exceed assets, (4) where Will is holograph and where domicile is Scotch.

FORM G.

FORM OF PETITION IN CASES FALLING WITHIN THE REGIMENTAL DEBTS ACT.

High Court, etc.

In the goods of

(here insert description of the deceased) and

In the matter of the Administrator-General's Act II of 1874 and the Regimental Debts Act 1893 being 56 Victoria, Chapter 5.

To

The Hon'ble, etc.

The humble Petition of the Administrator-General of Bengal.

SHEWETH,

1. That the said

deceased abovenamed

Vide notes at foot in case deceased left a Will.

who was not a Hindu, Mahomedan, Pars or Buddhist, or a person exempted under

the Indian Succession Act, 1865, sec. 332, from the operation of that Act, and who was at the time of his death (insert particulars) died at _____ on the _____ day of _____ intestate, leaving property and credits within the Presidency of Bengal to be administered unto.

2. That the deceased at the time of his death was subject to the provisions of the Regimental Debts Act, 1893 (56 Vict., Ch. 5), and the surplus assets have, in accordance with the provisions of Regulation 26 of the said Act, been transmitted to your Petitioner for distribution in accordance with the provisions of the said Act.

3. That your Petitioner has been requested to administer to the said estate by the Secretary to the Government of India, Military Department, in accordance with the provisions of section 22 of Act II of 1874, and he is therefore desirous of obtaining administration to the estate.

4. That the property and credits, which are likely to come into your Petitioner's hands, should he obtain such Letters of Administration, are of the estimated value of Rs. _____ made up as follows :—

Balance of account of the Committee of Adjustment realized from the Pay Examiner, Bengal Command _____ Rs.

. Particulars of any other assets which have not been realized, such as balance in Banks, Shares, Policies, etc. _____ Rs.

(Full particulars to be given.)

Less amount of debts said to be due and owing from the estate payable by law out of the assets and being debts non-regimental and which have not been dealt with by the Committee of Adjustment and which your Petitioner

(Here set out particulars from the proceedings forwarded to the office.)

5. That so far as your Petitioner is aware there is no other property and credits besides those specified above
K, HAG

belonging to the estate of the said deceased situate in any Province of British India, and your Petitioner hereby undertakes in case of its being afterwards found that there are other property and credits to pay the additional duty payable in respect thereof.

6. That no previous application has been made for a grant of Probate or Letters of Administration to the estate of the said deceased with effect throughout the whole of British India, as appears by the Registrar's Certificate hereto annexed and marked with the letter A.

7. (*Vide* para. 8 in Form A as to payment of duty.)

Your Petitioner therefore humbly prays your Lordships for an order that Letters of Administration to the property and credits of the deceased abovenamed as in case of intestacy be granted to your Petitioner as the Administrator-General of Bengal out of and under the seal of this Hon'ble Court.

And your Petitioner shall ever pray, etc.

Petitioner's Attorneys.

Notes.

1. The sections of the Administrator-General's Act are sections 21 and 22, but the reference in the latter section to the Regimental Debts Act as being the Act of 1863 is wrong ; the present Act in force is the Act of 1893 (Vict. 56, Ch. 5).

2. The procedure to be adopted on the death of a person subject to Military Law is laid down in the aforesaid Act of 1893, and attention is drawn to sections 25 and 26 of the Act which makes the Act applicable to India with the modifications therein referred to.

3. If the assets of the estate do not exceed Rs. 2,000 in value, the undertaking given in Form C should be followed (*vide* also prayer in Form C).

4. If the grant is to extend throughout British India (*vide* Form B).

5. If the deceased left a Will and administration is required with Will annexed (*vide* Form G).

6. If the debts exceed the assets (*vide* Form D).

7. It will be noted that in cases falling within the Regimental Debts Act the Court Fees Act is not followed, the reason for this being that the Committee of Adjustment realize certain of the assets and pay certain debts, and an account of their dealing with the assets is submitted showing surplus in hand and particulars of assets which remain to be realized, hence wording of particulars of assets as above.

FORM H.

FORM OF PETITION FOR ADMINISTRATION IN CASES FALLING WITHIN SECTION 17 OF THE ADMINISTRATOR-GENERAL'S ACT.

Heading as in previous Forms.

In the Goods of A. B.

To

The Hon'ble, etc.

The humble Petition of the Administrator-General of Bengal.

SHEWETH—

1. That A. B. the deceased abovenamed who was during his lifetime a Hindu governed by the Bengal School of Law died at
on the day of 19 , intestate.

2. (Here set out particulars of next-of-kin— *vide* para. 2, Form A.)

3. (*Vide* para. 4, Form A.)

4. That your Petitioner has been requested by
(here set out particulars as to whether the request has been from

next-of-kin, legatee or next friend of infant) to apply for administration to the estate of the deceased abovenamed as will appear from the consent of the said hereunder written (or as will appear from the affidavit of which said affidavit is filed with this Petition).

5. (*Vide* para. 6, Form A, including the two annexures.)

6. (*Vide* para. 7, Form A.)

7. (*Vide* para. 8, Form A.)

8. That your Petitioner under the circumstances herein stated is desirous of obtaining administration to the property and credits of the deceased abovenamed.

Prayer to Petition (*Vide*
Form A).

Notes.

1. If the deceased was a Mahomedan, Parsi, Buddhist or a Native Christian, it should be so stated in para. 1 of the Petition.

2. The affidavit to be made in support of the application should state the full circumstances of the case and the necessity for administration.

3. If the deceased has left a Will appointing the Administrator-General executor, Form F should be followed (*vide* paras. 2, 3, 9 and prayer of Form F).

4. If there are assets in Bombay or Madras, it should be so stated (*vide* Form B).

5. If the assets do not exceed Rs. 2,000 (*vide* Form C).

6. If liabilities exceed assets (*vide* Form D).

7. If administration is sought with copy of Will annexed (*vide* Form G).

FORM I.

FORM OF APPLICATION BY A PERSON INTERESTED IN THE ESTATE
EITHER AS A CREDITOR, LEGATEE OR NEXT-OF-KIN OR OTHER-
WISE DIRECTING THE ADMINISTRATOR-GENERAL TO APPLY
FOR ADMINISTRATION UNDER SEC. 17.

High Court, etc.

In the Goods of

To

The Hon'ble, etc.

The humble Petition of

(here set out as to who the applicant
is, *i.e.*, whether creditor, legatee, etc.).

SHEWETH—

1. That the deceased abovenamed who was during his life-
time (here set out as to whether the deceased was a Hindu, etc.)
died on the day of at

2. That the deceased abovenamed died intestate leaving him
surviving so far as your Petitioner is aware the following as his
next-of-kin (here give particulars as far as is known).

3. That the deceased abovenamed left a Will bearing date
the day of and he thereby appointed
executors thereof.

4. (Here set out any facts showing why it is necessary for
the Administrator-General to be moved in the matter.)

Note.—Paras. 3 and 4 can only be applied in cases
where a Will is left and it should also be stated where
the Will is if possible.

5. That so far as your Petitioner is aware and has been
able to ascertain the deceased has left assets as per particulars
set out in Schedule A hereto annexed.

6. That your Petitioner is interested in the due administration of the estate as a (here set out how interested).

7. That your Petitioner states that unless administration is granted to the estate there is danger to be apprehended of the misapprehension, deterioration and waste of the assets (particulars as to misappropriation, waste, etc., should be given if possible).

8. That your Petitioner is desirous that the Administrator-General of Bengal should administer to the estate of the deceased abovenamed.

Your Petitioner therefore prays your Lordships for an order directing the Administrator-General of Bengal to apply for administration to the estate of the deceased abovenamed and that he be indemnified against costs and other expenses in connection with any application he may make for administration or otherwise.

And your Petitioner will ever pray,
etc.

The above application should be verified by the applicant by an affidavit at the foot of the Petition and it may also be as well to support the application by affidavit or affidavits of other persons who know the facts. There is nothing to prevent a creditor or a legatee joining in the application.

If the deceased has left a Will and the executors nominated refuse to apply for Probate, or if the Will be in custody of a person who refuses to give it up, these facts should be stated in the Petition and a prayer also inserted calling for the production of the Will in Court.

FORM J.

PETITION FOR LETTERS OF ADMINISTRATION BY THE ADMINISTRATOR-GENERAL AFTER AN ORDER UNDER SECTION 17 DIRECTING THE ADMINISTRATOR-GENERAL HAS BEEN MADE.

High Court, etc.,

Testamentary and Intestate Jurisdiction.

In the Goods of

and

In the matter of the Administrator-General's Act.

To

The Hon'ble, etc.

The humble Petition of the Administrator-General of Bengal.

SHEWETH—

1. That the deceased abovenamed who was during his lifetime (here set out as to whether the deceased was Hindu, etc.) died on the day of at

2. (*Vide* paras. 2, 3 and 4, Form I, according to circumstances of the case.)

3. That by an order (recite date and effect of order made under Sec. 17).

4. That the deceased has left property within the Presidency of Bengal (and within the jurisdiction of this Hon'ble Court) to be administered to.

5. (*Vide* para. 6, Form A, including Schedule.)

6. (*Vide* para. 7, Form A.)

7. (*Vide* para. 8, Form A.)

8. (*Vide* para. 9, Form A.)

Your Petitioner therefore humbly prays your Lordships for an order that Letters of Administration of the property and credits of the deceased as in case of intestacy be granted to your Petitioner as the Administrator-General of Bengal. And your Petitioner, etc.

Notes.

1. If there is a Will, this should be stated and the Will annexed if it is in possession of the Administrator-General. If the Will is not in his possession but has been produced in Court, this fact should be stated.

2. In cases of Wills, the usual declaration should be obtained from one of the attesting witnesses.

3. *Vide* also previous forms in cases where unlimited grant is applied for or where estate is under Rs. 2,000 or where debts exceed assets, etc.

 FORM K.

PETITION BY THE ADMINISTRATOR-GENERAL FOR AN ORDER UNDER SECTION 18.

High Court, etc.

In the Goods of

and

In the matter of the Administrator-General's Act.

To

The Hon'ble, etc.

The humble Petition of the Administrator-General of Bengal.

SHEWETH—

1. That A. B. the deceased abovenamed who was during his lifetime a (here set out particulars as to whether the deceased

was a person governed by the Indian Succession Act or whether he was a Hindu, &c.) died on the day of 19 at

2. (Here set out whether the deceased died intestate or left a Will or not.)

3. That the deceased has left assets some of which are situate within the local limits of the Ordinary Original Civil Jurisdiction of this Hon'ble Court and full particulars of the assets left by the deceased so far as at present known to your Petitioner are set out in Schedule A hereto annexed.

4. (Here set out particulars as to apprehension or misappropriation, deterioration or waste.)

5. (Here set out particulars as far as known of the next-of-kin of the deceased if he died intestate.)

6. (Here set out reasons for applying for an order under the section.)

Your Petitioner therefore humbly prays
your Lordships for an order that
he may be authorized and enjoined
to collect and take possession of the
assets of the estate of the deceased
abovenamed and that he do hold or
deposit or invest the same according
to the orders of the Court and in
default of any such orders or direc-
tions according to the provisions of
this Act so far as the same are
applicable to such assets.

And your Petitioner will ever pray, etc.

Notes.

1. If there is any need to ask for the investment of the assets in any particular method, the prayer should be altered accordingly.

2. It sometimes happens that there may be delay in getting proof as to execution of a Will or Codicil and pending this, it

may be advisable for the protection of the assets to obtain an order under this section ; in such cases facts should be set out.

3. By way of illustration I would refer to the following cases under which an order has been made upon the application of the Administrator-General under this section.

(1.) Goods of Sham Soonder Khettry, order dated 20th May 1903.

(2.) Goods of Charlotte Hedger, order dated 23rd March 1905.

FORM L.

FORM OF PETITION FOR LETTERS OF ADMINISTRATION AFTER AN ORDER UNDER SEC. 18 ON THE APPLICATION OF THE ADMINISTRATOR-GENERAL (VIDE FORM K).

High Court, etc.

In the Goods of

and

In the matter of the Administrator-General's Act.

To

The Hon'ble, etc.

The humble Petition of the Administrator-General of Bengal.

SHEWETH—

1. (*Vide* para. 1, Form K.)
2. (*Vide* para. 2, Form K.)
3. (Here recite order under Sec. 18.)
4. (*Vide* paras. 2 and 3, Form A, if the deceased died intestate.)
5. (*Vide* paras. 2 and 3, Form E, if the deceased left a Will.)
6. (*Vide* para. 4, Form A, and para. 4, Form B.) (This will be in accordance with facts.)
7. (*Vide* para. 5, Form A, in cases falling under Sec. 16 of the Act.)

8. (*Vide* para. 6, Form A, including Schedule.)
9. (*Vide* para. 7, Form A.)
10. (*Vide* para. 8, Form A.)
11. (*Vide* para. 9, Form B, in cases where assets are situate in Bombay or Madras.)
12. (*Vide* para. 8, Form C, in cases where the assets are less than Rs. 2,000.)
13. (*Vide* para. 9, Form A.) (*Vide* para. 9, Form F, in cases of grants with Will annexed.)

Prayer—(See Form A, Form B,
Form C, Form F.)

FORM M.

PETITION FOR AN ORDER UNDER SEC. 18 BY A CREDITOR,
NEXT-OF-KIN OR LEGATEE, ETC.

High Court, etc.

In the Goods of

and

In the matter of the Administrator-
General's Act.

• To

The Hon'ble, etc.

The humble Petition of (here set out
as to who the applicant is, *i.e.*,
whether creditor, legatee, etc.)

SHEWETH—

1. (See para. 1, Form I.)
2. (See para. 2, Form I.)
3. (See para. 3, Form I.)
4. (See notes to para. 4, Form I.)
5. (See para. 3, Form K.)
6. (See para. 4, Form K.)

7. (See para. 5, Form K.)

8. That your Petitioner is desirous that the Administrator-General of Bengal should be placed in possession of the estate under the provisions of Sec. 18, Act II of 1874.

Your Petitioner therefore humbly prays
your Lordships for an order that the
Administrator-General of Bengal be
authorized to, etc. (*vide* prayer to
Form K).

Notes.

1. (*Vide* Notes to Form K.)
2. (*Vide* also orders made in the following estates :—
 - (i) Hannah Greenburg, at instance of Commissioner of Police. Order dated 15th May 1890.
 - (ii) Col. Gibson, at instance of Commissioner of Police. Order dated 26th August 1904.
 - (iii) Haridas Dutt, at instance of his two daughters. Order dated 1st September 1904.)

3. It is not usual for the Administrator-General to apply for an order under Sec. 18 of his Act, and the cases cited under Form K are exceptions to the Rule.

FORM N.

FORM OF REQUEST TO BE SIGNED BY CREDITOR, LEGATEE OR
NEXT-OF-KIN IN FAVOUR OF THE ADMINISTRATOR-GENERAL,
REQUESTING HIM TO APPLY FOR ADMINISTRATION UNDER
SECTION 17 OF ACT II OF 1874.

1. *By creditor or creditors.*

I (or we) the undersigned at present residing at
a creditor to the estate of late of
do hereby request the Administrator-General of Bengal to apply
for administration to the estate of the said
and I (or we) do hereby agree to indemnify the said

Administrator-General against any order for costs that may be made against him for costs in these proceedings and I (or we) also hereby agree to pay any such costs and also to pay any costs that may be incurred by him the said Administrator-General in any proceedings had in such estate.

Dated this day of 19 .

Witnesses to signature.

2. *By a legatee.*

(Same form as above with the necessary changes.)

3. *By a person interested in the estate.*

I (or we) the undersigned at present residing at
(here set out how interested in the estate whether as next-of-kin, representative of deceased next-of-kin or otherwise. Then follow Form I).

4. *By next friend of a minor.*

I (or we) the undersigned at present residing at
do hereby declare that I (or we) am (or are) the next friend of
who is interested in the estate of
late of he the said (minor) being at
present of the age of and he the said (minor) is at present
under the care of and is interested in the said
estate (here set out interest of the minor) I (or we) as such next
friend as aforesaid do hereby request the Administrator-General
of Bengal to apply for administration to the estate of the said
(Then follow Form I.)

Note.—The above form may also be followed with the necessary changes in cases where the Administrator-General of Bengal is requested to apply for an order under the provisions of Sec. 18, Act II of 1874.

FORM O.

FORM OF REQUEST BY RESIDUARY LEGATEE TO ADMINISTRATOR-
GENERAL TO APPLY FOR ADMINISTRATION WITH COPY WILL.

I (or we) the undersigned at present residing at
the residuary legatee (or legatees) under the last Will and Testa-
ment of late of do hereby request the
Administrator-General of Bengal to apply for administration to
the estate of the said (If an indemnity be
necessary follow Form I).

FORM P.

FORM OF REQUEST BY EXECUTORS.

We the undersigned the executors nominated by the last Will and Testament of late of do hereby request the Administrator-General of Bengal to apply for Letters of Administration to the estate of the said and we do also hereby renounce our right to apply for Probate of the said Will.

(If an indemnity be required, follow latter part of Form I.)

FORM Q.

DEED OF TRANSFER UNDER SECTION 31, ACT II OF 1874, IN CASES
WHERE DECEASED LEFT A WILL.

To all to whom these presents shall come A B at present of
sends greeting WHEREAS C D late of
duly made and published his last Will and
Testament bearing date the day of (recite shortly
provisions of Will and appointment of A B as executor) AND
WHEREAS the said C D died on the day of 19 without
having revoked his said Will AND WHEREAS Probate of the

said Will was granted to the said A B by (name Court) on the day of 19 AND WHEREAS the account hereto annexed and marked A contains an account of the administration of the estate of the said testator by the said A B up to the date of these presents AND WHEREAS particulars of the assets now remaining in the hands of the said A B are set out in the Schedule hereto annexed and marked B AND WHEREAS the said A B is desirous of transferring under the provisions of Sec. 31 Act II of 1874 the estate now remaining in his hands and all his right title and interest therein or thereto to the Administrator-General of Bengal who has consented to accept such transfer NOW KNOW ALL MEN AND THESE PRESENTS WITNESS that in exercise of the power vested in him by Sec. 31 of the Administrator-General's Act being Act II of 1874 and of all other powers enabling him and with the consent of the Administrator-General of Bengal as testified by his executing these presents the said A B doth hereby transfer unto the Administrator-General of Bengal and his successors in office all the estate effects and interests specified in the said Schedule C vested in him by virtue of the said grant of Probate so made to him as aforesaid together with all rights and powers and subject to all liabilities which the said Administrator General would have had and to which he would have been subject if the said grant of probate had been granted to him at the date hereof in respect of the said assets so transferred to him as aforesaid To HAVE hold receive and take the said assets unto the said Administrator-General and his successors in office under the terms and provisions of Act II of 1874 and with and under and subject to the powers, rights and liabilities thereby given IN WITNESS WHEREOF the said parties hereto have hereto set their respective hands and seals this day of 19 . Signed sealed and delivered by the said A B in the presence of . Signed, sealed and delivered by the Administrator-General of Bengal in the presence of .

Notes.

If there are any Codicils these should be recited.

If it is possible to set out by way of Schedule a list or an account of the assets which came into the hands of executor it is as well to do so to further complete the deed and in such case the following recital should be inserted before the recital relating to accounts "AND WHEREAS the Schedule hereto annexed and marked A contains a list of assets which came into the hands of the said A B."

In case of the transferor being an Administrator with Will annexed the recitals as to Will and grant, etc., should be in accordance with the facts.

FORM R.

DEED OF TRANSFER UNDER SECTION 31, ACT II OF 1874, IN CASE OF INTESTATE ESTATES.

To all to whom these presents shall come A B at present of
SENDS GREETING WHEREAS C D late of
died on the day of 19 intestate and leaving him
surviving as his next-of-kin (fill in particulars) AND WHEREAS Letters of Administration were granted to the said A B on the
day of 19 by (name Court) AND WHEREAS the account hereto
annexed and marked A contains an account of the administration
of the said estate of the said deceased by the said A B up to the
date of these presents (hereafter follow Form Q).

FORM S.

DEED OF TRANSFER UNDER SECTION 32, ACT II OF 1874.

This Indenture made this day of 19
between the Administrator-General of Bengal of the one part and

the Official Trustee of Bengal of the other part WHEREAS A B late of duly made and executed his last Will and Testament bearing date the day of 19 whereby (recite provisions of Will and appointment of executor) AND WHEREAS Probate of the said Will was granted to the Administrator-General of Bengal by (name Court) on the day of 19 AND WHEREAS the said Administrator-General as such executor as aforesaid duly discharged the funeral and testamentary expenses and has paid all the debts and legacies of the said testator AND WHEREAS the said Administrator-General has adjusted his accounts and has set apart in his books to a separate account a sum of Rs. to answer (name trust for which purpose money set apart) AND WHEREAS the opening of such separate account has been duly advertised in accordance with Sec. 32 of Act II of 1874 AND WHEREAS the Administrator-General has applied to the Official Trustee to take over the said assets so transferred under and by virtue of Sec. 32 of Act II of 1874 and hold them upon the trusts declared by the Will to which the said Official Trustee has consented AND WHEREAS the Schedule hereunder written contains particulars of the securities and cash appertaining to the said Trust account NOW THIS INDENTURE WITNESSETH that in consideration of the premises and in pursuance of the power in him vested under and by virtue of the said Sec. 32 of Act II of 1874 the Administrator-General doth hereby with the consent of the Official Trustee testified by his being a party to these presents appoint the said Official Trustee to be the Trustee of the said Government Securities and cash constituting the said trust and he doth hereby transfer unto the said Official Trustee and his successors in office all those securities and cash set forth and specified in the said schedule hereto. TO HAVE and to hold the same upon trust in the first place to pay thereout the commission and charges of the said Official Trustee on receiving this trust and the costs charges and expenses of and incidental to the transfer of this trust and then to hold them subject to the trust contained in the said Will IN WITNESS WHEREOF

the parties hereto have set their hands and seals this
day of 19

Signed, sealed and
delivered by the Ad-
ministrator-General of
Bengal in the presence
of

Signed, sealed and deli-
vered by the Official
Trustee of Bengal in
the presence of

Notes to above.

1. It is sometimes convenient to annex to the Deed of Trans-
fer a copy of the Will of the testator.

2. If there be any Codicil or Codicils these should be recited
or annexed.

3. A Deed of Transfer can also be executed in cases where
the Administrator-General has obtained administration with copy
Will annexed.

4. It is necessary to recite the particular trust or trusts for
which separate accounts have been opened.

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GENERAL FORMS.

FORM No. 1.

PETITION FOR ADMINISTRATION IN CASE OF INTESTACY BY NEXT-
OF-KIN WHERE ASSETS IN BENGAL.

High Court, etc.

In the Goods of A B late of (insert
full particulars) deceased, and
residence of applicant.

To

The Hon'ble, etc.

The humble Petition of (here insert
particulars of relationship of appli-
cant to the deceased.)

SHEWETH—

1. That the deceased abovenamed, late of
aforesaid, who was in his lifetime and at the time of his death a
British subject, departed this life intestate at , on the
day of 19

2. That the said deceased left him surviving as his next-of-
kin the following (here set out particulars.)

3. That the said deceased died leaving property within the
jurisdiction of this Honourable Court to be administered unto,
and your Petitioner is desirous of obtaining from this Honour-
able Court Letters of Administration to the estate credits and
effects of the deceased abovenamed throughout the Province of
Bengal.

4. That particulars of the estate of the deceased abovenamed are set out in the affidavit of valuation of your Petitioner sworn on the day of 19 in accordance with the provisions of Act XI of 1899, and the value of such estate will not, to the best of your Petitioner's information and belief, exceed the sum of Rs.

5. That so far as your Petitioner has been able to ascertain and is aware, there are no property and effects other than those specified in the said affidavit of valuation as required by Section 277A of the Indian Succession Act 1865, and your Petitioner undertakes in case of other property and effects coming to his hands that he will pay the Court fee payable in respect thereof.

6. That no application has been made to this Honourable Court or any other Court in India in these goods for a grant of Probate or of Letters of Administration to the estate credits and effects of the said deceased as appears by the certificate of the Registrar of this Honourable Court hereunto annexed and marked A.

7. That your Petitioner has duly paid the *ad valorem* duty payable in respect of the said estate as will appear from the certificate of the Registrar hereunto annexed and marked B.

Your Petitioner therefore humbly prays your Lordships for an order that Letters of Administration to the estate credits and effects of the deceased abovenamed be granted to your Petitioner as the next-of-kin of the deceased with effect throughout the Province of Bengal.

And your Petitioner will ever pray,
etc.

Petitioner's Attorneys.

I , the Petitioner abovenamed, do declare that what is stated in the foregoing Petition is true to the best of my information and belief.

FORM No. 2.

PETITION FOR ADMINISTRATION FOR GRANT THROUGHOUT
BRITISH INDIA.*High Court, etc.*

In the Goods of

late of

deceased.

To

The Hon'ble, etc.

The humble Petition of (here insert particulars of relationship of applicant to the deceased), and residence of applicant.

SHEWETH—

1. That the deceased abovenamed late of aforesaid who was in his lifetime and at the time of his death a British subject departed this life intestate at on the day of 19 .

2. That the said deceased left him surviving as his next of kin the following (here set out particulars).

3. That the said deceased died leaving property within and without the jurisdiction of this Honourable Court to be administered unto and your Petitioner is desirous of obtaining from this Honourable Court Letters of Administration to the estate credits and effects of the deceased abovenamed.

4. That particulars of the estate of the deceased abovenamed are set out in the affidavit of valuation of your Petitioner sworn on the day of 19 in accordance with the provisions of Act XI of 1899 and the value of such estate will not to the best of your Petitioner's information and belief, exceed the sum of Rs.

5. That as will be seen from the affidavit of valuation referred to in the preceding paragraph there are assets appertaining to the estate of the deceased situate outside the Presidency of Bengal and your Petitioner accordingly desires to have a grant throughout the whole of British India and he hereby undertakes in case of its

being afterwards found that there are other property and effects that he will pay the Court fee payable in respect thereof and that he will also enter into an additional bond for the due administration of the estate as required by the Rules and orders of this Court.

6. That no application has been made to this Honourable Court or any other Court in India in these goods for a grant of Probate or of Letters of Administration to the estate credits and effects of the said deceased as appears by the certificate of the Registrar of this Honourable Court hereunto annexed and marked A.

7. That your Petitioner has duly paid the *ad valorem* duty payable in respect of the said estate as will appear from the certificate of the Registrar hereunto annexed and marked B.

Your Petitioner therefore humbly prays your Lordships for an order that Letters of Administration as in case of intestacy of the property credits and effects of the deceased abovenamed may be granted to your Petitioner as the next-of-kin of the deceased abovenamed and your Petitioner also prays that such grant may extend throughout the whole of British India your Petitioner hereby undertaking in case of its being afterwards found that there are other property and effects that he will pay the Court fee payable in respect thereof and that he will enter into a further Bond in respect of such additional assets.

And your Petitioner will ever pray, etc.

Petitioner's Attorneys.

I the Petitioner abovenamed do declare that what is stated in the foregoing Petition is true to the best of my information and belief.

High Court, etc.

In the Goods of
late of deceased.

To

The Hon'ble, etc.

The humble Petition of
(here insert particulars of relation-
ship of applicant to the deceased.)

SHewETH—

1. (*Vide* para. 1, Form 1.)
2. " " 2 " 1.)
3. " " 3 " 1.)
4. " " 4 " 1.)
5. " " 5 " 1.)

„ also para. 5, Form 1, if there are other assets outside Bengal).

6. That in as much as the gross value of the estate is less than Rs. 2,000 your Petitioner is desirous that the fees on the grant and on the several proceedings which shall have been had in order to obtain the same may be remitted.

7. (*Vide* para. 6, Form 1.)
8. " " 7, " 1.)

Note.

If there are assets outside Bengal the undertaking given in Form No. 2 should also be inserted.

Your Petitioner therefore humbly prays your Lordships for an order that Letters of Administration as in case of an intestacy of the property and credits of the deceased may be granted to your Petitioner as the next-of-kin of the deceased with effect throughout the Province of

Bengal and your Petitioner also prays that the fees of Court payable on such grant and on the several proceedings which shall have been had in order to obtain the same shall be remitted your Petitioner hereby undertaking to pay to the Secretary of State in Council or other party entitled thereto the fees of Court so remitted in case the estate shall hereafter be found to be of greater value than Rs. 2,000.

And your Petitioner will ever pray, etc.

(Verification same as in Form No. 1.)

FORM No. 4.

PETITION FOR ADMINISTRATION WHERE DEBTS EXCEED ASSETS.

Heading of Petition as in former Form.

- 1.)
 - 2.)
 - 3.)
 - 4.)
- } Same as in Form No. 1.

5. If there are assets outside Bengal add para. 5, Form No. 2.

6. As will be seen from the affidavit of valuation, the liabilities of the estate exceed the assets and your Petitioner therefore claims exemption from paying duty and he hereby undertakes to pay any duty that may hereafter be found payable.

7. (*Vide* para. 6, Form No. 1.)

8. That annexed hereto and marked with the letter B is a certificate from the Taxing Officer of this Honourable Court showing that no duty is payable.

If there are assets outside Bengal the undertaking in Form No. 2 should be given.	Your Petitioner therefore humbly prays your Lordships for an order that Letters of Administration to the estate credits and effects of
--	---

the deceased abovenamed be granted to your Petitioner as the next-of-kin of the deceased with effect throughout the Province of Bengal. And your Petitioner will ever pray, etc.

(Verification—*See* Form No. 1.)

FORM No. 5.

PETITION FOR ADMINISTRATION WHERE ESTATE IS UNDER
Rs. 1,000 IN VALUE.

Heading of Petition same as in Form No. 1.

1.)
2.)
3.) } Same as in Form No. 1.
4.)
5.)

6. That as will be seen from the affidavit of valuation referred to in the preceding para. the assets of the estate are under Rs. 1,000 in value and your Petitioner therefore claims exemption from payment of duty and he is also desirous that the fees on the grant and on the several proceedings which shall have been had in order to obtain the same may be remitted.

7. (*Vide* para. 6, Form No 1.)

8. „ „ 8, „ „ 4.)

Prayer as in Form No. 3.

(Verification—*Vide* Form No. 1.)

N.B.—*Vide* Form 2, para. 5, if an unlimited grant is asked for.

FORM No. 6.

PETITION FOR ADMINISTRATION BY CONSTITUTED ATTORNEY OF
ABSENT NEXT-OF-KIN.

Heading of Petition as before (Form No. 1.)

The humble Petition of
residing at
the duly constituted attorney
of (here insert
particulars of relationship of absent
next-of-kin.)

SHEWETH—

1. }
2. } (*Vide* paras. 1, 2 and 3 of Form No. 1.)
3. }

4. That the said (next-of-kin) is residing out of the jurisdiction of this Hon'ble Court and has by a Power-of-Attorney under his hand dated the day of 19 which is hereto annexed and marked A appointed your Petitioner his attorney for the purpose of obtaining Letters of Administration to the estate credits and effects of the deceased abovenamed.

5. That the said annexed Power-of-Attorney was duly executed by the said in the presence of the attesting witnesses thereto and also of Notary Public practising at aforesaid as appears by his certificate to the said Power annexed.

(If the Power is executed out in India, particulars as to its execution should be stated.)

6. (*Vide* para. 4, Form No. 1.)

7. „ „ 5 „ „

8. „ „ 6 „ „

9. „ „ 7 „ „

10. That your Petitioner desires to obtain administration to the estate of the deceased abovenamed as the duly constituted attorney of the said

Your Petitioner therefore humbly prays your Lordships for an order that Letters of Administration of the estate credits and effects of the deceased abovenamed be granted to your Petitioner as the constituted attorney of the said the next-of-kin of the deceased abovenamed limited to the Province of Bengal and limited until such time as he the said shall come in and apply to have a grant issued to himself.

And your Petitioner will ever pray, etc.
(Verification same as Form No. 1.)

Notes.

1. If there are assets outside the Province of Bengal, *vide* para. 5 and Prayer of Form No. 2.
2. If assets do not exceed Rs. 2,000, *see* para. 6 and Prayer of Form No. 3.
3. If debts exceed assets, *vide* paras. 6 & 8, Form No. 4.
4. If assets under Rs. 1,000, *vide* para. 6, Form No. 5 and Prayer of Form No. 3.

FORM No. 7.

PETITION BY CREDITOR.

Heading as before.

The humble Petition of

(set out full particulars.)

1. (*Vide* Form No. 1.)
2. That so far as your Petitioner is aware the deceased left him surviving as his next-of-kin the following (set out particulars so far as known.)

3. (Here set out particulars of the debt due to the Petitioner by the estate, how it arose and whether the Creditor has any security.)

4. (Same as para. 3, Form No. 1.)
5. (Same as para. 4, Form No. 1.)
6. (Same as para. 5, Form No. 1.)
7. (Same as para. 6, Form No. 1.)
8. (Same as para. 7, Form No. 1.)

Your Petitioner therefore prays your Lordships for an order that Letters of Administration to the estate credits and effects of the deceased abovenamed be granted to your Petitioner as a creditor of the deceased abovenamed with effect throughout the Province of Bengal and your Petitioner hereby undertakes to pay all debts of equal degree in equal proportions without any preference of his own debt and to distribute the estate in due course of administration.

And your Petitioner shall ever pray, etc.

(Verification same as before.)

Notes.

1. If there are assets outside Bengal, *see* Form 2.
2. If the estate is insolvent, *see* Form 4.
3. If estate is under Rs. 1,000, *see* Form 5.
4. If estate is under Rs. 2,000, *see* Form 3
5. If the deceased has left a Will the petition should be so amended and reasons given why a grant is sought, where the Will is, etc.

FORM 8.
PETITION FOR PROBATE.

Heading as before.

The humble Petition of
the executor named in the last Will
and Testament of the deceased above-
named.

SHEWETH—

1. That the deceased abovenamed late
of aforesaid who was in his lifetime and
at the time of his death a British subject departed this life at
on the day of 19 having
duly executed his last Will and Testament bearing date ()
the day of (if any Codicil—this should be stated) whereof he
appointed your Petitioner the sole executor.

2. That the said Will is hereto annexed and marked A and
the execution thereof is proved by the declaration of
one of the attesting witnesses thereto.

3, 4, 5, 6 and 7. (Same as in Form No. 1.)

Your Petitioner therefore humbly
prays your Lordships for an order
that Probate of the last Will and
Testament of the deceased above-
named may be granted to your
Petitioner as the sole executor
therein named limited to the
Province of Bengal.

And your Petitioner, etc.

(Verification same as before.)

DECLARATION.

I the undersigned one of the attesting
witnesses to the last Will and Testament of the deceased
abovenamed do hereby declare that I was present at the time the

testator abovenamed signed his Will and the signature (A B) at the foot of the said Will is in the proper handwriting of the said deceased and was affixed in my presence and in the presence of the other attesting witness both of us signing in the presence of the deceased.

Notes.

1. If there are assets outside Bengal, *vide* para. 5 and Prayer of Form No. 2.

2. If assets do not exceed Rs. 2,000, *vide* para. 6 and Prayer of Form No. 3.

3. If estate is insolvent, *see* paras. 6 and 8, Form No. 4.

4. If assets are under Rs. 1,000, *vide* para. 6, Form 5, and Prayer of Form No. 3.

5. If the attestation clause to the Will be not in order a mere declaration as to execution of the Will is not sufficient and an affidavit as to any irregularity by one of the attesting witnesses must be furnished.

6. If the attesting witnesses be dead, an affidavit must be furnished as to the due execution of the Will by some person acquainted with the deceased's handwriting and an affidavit must also be put in by some one acquainted with at least the handwriting of one of the attesting witnesses.

7. If the deceased only put his "mark" an affidavit by attesting witnesses should be put in setting out particulars. •

8. If attesting witnesses cannot be found to make the necessary declaration or affidavits, it is necessary to put in an affidavit explaining the circumstances and an affidavit by some one who can speak to the handwriting of the deceased and the attesting witnesses.

9. If the Will be in duplicate both should be proved.

10. If the deceased had a Scotch domicile, a holograph Will can be admitted to Probate but an affidavit should be put in (a) proving domicile (b) that Will is in the deceased's handwriting.

11. The above procedure should also be followed in cases of French domicile where the Will is in the handwriting of the deceased and not attested.

12. If the Will is written in any of Eastern or Foreign languages and characters, there must be a translation by an interpreter if there be one of the particular language ; if not, by some person competent, and in such case there must be an affidavit by the translator as to his competency.

FORM No. 9.

PETITION FOR ADMINISTRATION WITH COPY WILL ANNEXED BY
CONSTITUTED ATTORNEY OF ABSENT EXECUTOR WHERE
WILL HAS BEEN PROVED IN ANOTHER COURT.

(Heading as before.)

The humble Petition of
the duly constituted attorney of
the executor named in the
last Will and Testament of the
deceased abovenamed.

SHEWETH,—

1. That the deceased abovenamed late of
aforesaid who was in his lifetime and at the time of
his death a British subject departed this life at on the
day of 19 having duly executed his
last Will and Testament bearing date the day of
19 (if any Codicil this should be stated) whereof he
appointed the said the sole executor.

2. That the said Will (and codicil) of the deceased above-
named was (or were) duly proved by the said in the
Court of on the day of 19
and an exemplification thereof under the seal of
is hereto annexed and marked A.

3. That the said _____ is residing out of the jurisdiction of this Honourable Court and has by a Power-of-Attorney under his hand and seal dated the _____ day of 19 _____ which is hereto annexed and marked B appointed your Petitioner his attorney for the purpose of obtaining Letters of Administration to the estate of the deceased abovenamed with copy of the said Will (and Codicil) annexed.

4. (Follow para. 5, Form No. 6.)

5. (Follow para. 3, Form No. 1.)

6. (Follow para. 4, Form No. 1.)

7. (Follow para. 5, Form No. 1.)

8. (Follow para. 6, Form No. 1.)

9. (Follow para. 7, Form No. 1.)

10. That your Petitioner desires to obtain administration with copy of the said Will (and Codicil) annexed to the estate of the deceased abovenamed as the duly constituted attorney of the said

Your Petitioner therefore humbly prays your Lordships for an order that Letters of Administration with copy of the said Will (and Codicil) annexed be granted to your Petitioner as the duly constituted attorney of the said _____ the executor named in the said Will (and Codicil) limited to the Province of Bengal and limited until such time as he the said

shall come in and apply for Probate to be granted to himself.

And your Petitioner will ever pray, etc.

(Verification same as before.)

Notes.

1. No declaration as to execution of Will is required where an exemplification is annexed.

2. If there are assets outside Bengal, *vide* para. 5 and prayer of Form No. 2.
3. If assets do not exceed Rs. 2,000, *vide* para. 6, and Prayer, Form No. 3.
4. If estate insolvent, see paras. 6 and 8, Form No. 4.
5. If assets under Rs. 1,000, *vide* para. 6, Form No. 5, and Prayer, Form No. 3.

FORM No. 10.

FORM OF PETITION FOR ADMINISTRATION BY RESIDUARY LEGATEE WHERE EXECUTOR IS DIED.

(Heading as before.)

The humble Petition of
the residuary legatee under the last
Will and Testament of the deceased
abovenamed.

SH EWETH,—

1. That _____ the deceased abovenamed late of
aforesaid who was in his lifetime and at the time of
his death a British subject departed this life at _____ on
the _____ day of _____ 19____ (if any Codicil, this should be
stated).

2. That the deceased by his Will appointed
the executor of his Will.

3. That the said _____ (executor) departed this life
on the _____ day of _____ 19____ without having proved the
Will and your Petitioner is the residuary legatee under the said Will.

4. (See para. 2, Form No. 8.)

5. (See para. 3, Form No. 1.)

6. (See para. 4, Form No. 1.)

7. (See para. 5, Form No. 1.)

8. (See para. 6, Form No. 1.)

9. (See para. 8, Form No. 1.)

10. Your Petitioner under the circumstances abovenamed claims administration to the estate of the deceased abovenamed with copy of the said Will (or Codicil) annexed.

Your Petitioner therefore prays your Lordships for an order that Letters of Administration to the estate of the deceased abovenamed with copy of the said Will (or Codicil) annexed be granted to your Petitioner as the residuary legatee named in the said Will limited to the Province of Bengal.

And your Petitioner shall ever pray, etc.

(Declaration as to execution of Will, *see* Form No. 2 and notes at foot.)

FORM No. 11.

PETITION FOR PROBATE BY ONE EXECUTOR WHERE MORE THAN ONE HAVE BEEN APPOINTED.

(Heading as before.)

The humble Petition of
one of the executors named in the last
Will and Testament of the deceased
abovenamed.

SHEWETH,—

1. (Same as in para. 1, Form 8), but instead of the words “whereof he appointed your Petitioner the sole executor” use the following “whereof he appointed ‘A B’, ‘C D’ and your Petitioner the executors.”

2. (Same as para. 2, Form No. 8.)

3, 4, 5, 6 and 7. (Same as in Form No. 1.)

8. That the said “A B” and “C D” are at present residing out of the jurisdiction of this Court. (State where residing.)

Your Petitioner humbly prays your Lordships for an order that Probate of the last Will and Testament of

the deceased abovenamed may be granted to your Petitioner as one of the executors named in the last Will and Testament of the deceased limited to the Province of Bengal power being reserved to the said "A B" and "C D" to come in and apply for a like grant.

And your Petitioner will ever pray, etc.

(Verification same as before.)

(Declaration—*See* Form No. 8.)

Notes.

If any of the other executors have renounced or are dead para. 8 will have to be amended accordingly and the original renunciation should be annexed to the Petition.

If the Will is in possession of an executor who refuses to apply for probate and refuses to hand over the Will, a Petition should be presented by the executor or executors willing to apply setting out the facts and asking for a rule to show cause why the Will should not be produced in Court for purposes of Probate being granted (Section 237, Act X of 1865).

FORM No. 12.

PETITION BY NEXT-OF-KIN OR LEGATEE, ETC., FOR ADMINISTRATION
WITH COPY WILL ANNEXED WHERE EXECUTORS ARE DEAD OR
WHERE THEY REFUSE TO ACT.

(Heading as before.)

The humble Petition of

(here set out whether next-of-kin or
legatee).

SH EWETH,—

1. (*Vide* Para. 1, Form 8, but instead of the words "Your Petitioner the executor" use the following:—"whereof he appointed A B, C D executors.")

2. (*Vide* Para. 2, Form 8.)

3, 4, 5, 6 and 7. (Same as in Form No. 1.)

8. That the said executors are dead (give particulars of death).

That the said executors have renounced their right and the original renunciation signed by the said executors is hereto annexed and marked "C." (If separate renunciations, set these out.)

9. That your Petitioner is a legatee under the Will of the deceased abovenamed and claims to have Letters of Administration with copy of the said Will annexed.

Legatee.

10. That your Petitioner is the sole next-of-kin of the deceased abovenamed and claims to have Letters of Administration with copy of the said Will annexed, and besides your Petitioner the deceased left him surviving the following (here set out particulars).

Next-of-kin.

Your Petitioner therefore humbly prays your Lordships for an order that Letters of Administration to the estate of the deceased abovenamed with copy of the said Will be granted to him limited to the province of Bengal.

And your Petitioner will ever pray,
etc.

(Verification, same as before.)

(Declaration, same as before.)

Notes.

See Notes to Form 8.

FORM No. 13.

PETITION FOR PRODUCTION OF A WILL WHICH HAS BEEN
DEPOSITED IN THE OFFICE OF REGISTRAR
OF ASSURANCES.

High Court, etc.

In the Goods of A B, etc.

To

The Hon'ble, etc.

The humble Petition of _____,
the executor named in the last Will
and Testament of the deceased
abovenamed.

SHEWETH,—

1. That _____ the deceased abovenamed who was a
European British subject late of _____, died at
on the _____ day of _____ 19 _____ having first duly
made and executed his last Will and Testament bearing date the
_____ day of _____ 19 _____.

2. That the deceased deposited his said Will with the Registrar of Assurances at _____

That your Petitioner is the sole executor named in the said Will
and as such is desirous of applying for Probate of the said Will.

Your Petitioner therefore humbly
prays your Lordships for an order
that the Registrar of Assurances of _____
be directed to produce the said
Will of the deceased abovenamed in
this Honourable Court to enable
your Petitioner to apply for Probate,
and your Petitioner also prays for an
order that the costs of and incidental
to this application be paid out of
the estate of the said deceased.

And your Petitioner will ever pray, etc.

(Verification, same as before.)

FORM No. 14.

PETITION FOR ADMINISTRATION DE BONIS NON WHERE
DECEASED DIED INTESTATE.*High Court, etc.*

(Heading as before.)

The humble Petition of

(here set out particulars as to who
the applicant is).

SHEWETH, —

1, 2, 3. (Same as in Form No. 1.)

4. That Letters of Administration to the estate of the deceased abovenamed were on the day of 19 granted to (here set out particulars whether to next-of-kin, etc.) by this Honourable Court.

5. That annexed hereto and marked with the letter A is an office copy of the affidavit of valuation of assets of the said showing particulars of the assets on which duty was paid.

6. That the said died on the day of 19 leaving certain of the assets unadministered to and it is necessary to have administration *de bonis non* to the said estate in order that the unadministered assets may be properly distributed amongst the persons entitled.

7. That particulars of the assets to be administered to are set out in the affidavit of valuation of your Petitioner sworn on the day of 19 .

8. That no application with the exception of the one already referred to has been made to this Honourable Court or any other Court in India in these goods for any Letters of Administration to the estate credits and effects of the said deceased as appears by the certificate of the Registrar of this Honourable Court hereto annexed and marked with the letter B.

9. That your Petitioner claims to administer to the said estate as (here set out ground on which Petitioner claims).

10. That in as much as duty was paid on the value of estate by the said no duty is now payable as is evidenced by the certificate of the Taxing Officer hereto annexed and marked C.

Your Petitioner therefore humbly prays your Lordships for an order that Letters of Administration *de bonis non* be granted to your Petitioner to the estate credits and effects of the deceased abovenamed limited to the Province of Bengal.

And your Petitioner, etc.

(Verification, same as before.)

FORM No. 15.

FORM OF PETITION FOR ADMINISTRATION DE BONIS NON WHERE THE DECEASED LEFT A WILL.

High Court, etc.

(Heading as before.)

The humble Petition of

(here set out particulars as to who the applicant is).

SHEWETH,—

1. (Same as para. 1, Form No. 8), but instead of the words “whereof he appointed your Petitioner the sole executor” use the words “whereof he appointed A. B. (naming person) as executor.

2. (Same as in para. 3, Form No. 1.)

3. That the said A. B. as such executor duly proved the Will of the deceased abovenamed in this Honourable Court and Probate thereof was granted to him on the day of 19 and the Probate so granted is hereto annexed and marked A.

4. (Same as para. 5, Form No. 14.)

5. (Same as para. 6, Form No. 14.)

6. (Same as para. 7, Form No. 14.)

7. (Same as para. 8, Form No. 14.)
8. (Same as para. 9, Form No. 14.)
9. (Same as para. 10, Form No. 14.)

Your Petitioner therefore humbly prays
your Lordships for an order that
Letters of Administration *de bonis
non* with copy of the said Will
annexed may be granted to your
Petitioner as (fill in particulars)
limited to the Province of Bengal.

And your Petitioner, etc.

(Verification, same as before.)

Notes.

1. No declaration is necessary as Will has already been proved.
2. *Vide* Notes to Form No. 6.

FORM No. 16.

FORM OF INVENTORY TO BE FILED IN COURT ON COMPLETION
OF ADMINISTRATION.

*In the High Court of Judicature at Fort William in Bengal,
Testamentary and Intestate Jurisdiction.*

In the Goods of A. B. deceased. .

A true, full, plain, perfect and particular inventory of all
and singular the estate and effects of A. B.,
Inventory. late of deceased which have at
any time since his death come to the hands, possession or knowl-
edge of C. D., the sole executor named in the last Will and
Testament of the deceased abovenamed under the Probate of the
said Will granted to the said C. D. by this Honourable Court on
the day of to wit :—

20 shares in the	}	(Set out particulars of assets which came into hands of executor.)
Company, etc., etc.		

FORM No. 18.

FORM OF AFFIDAVIT AS TO VALUATION OF ASSETS.

High Court, etc.

In the Goods of A. B.

I ^{Solemnly affirm}
make oath and say that I am the executor (or one of the executors or administrators or next-of-kin) of the deceased abovenamed and that I have truly set forth in annexure A to this affidavit all the property and credits of which the abovenamed deceased died possessed or was entitled to at the time of his death and which have come or are likely to come to my hand.

2. I further say that I have also truly set forth in annexure B all the items I am by law allowed to deduct.

3. I further say that the said assets exclusive only of such last mentioned items but inclusive of all rents, interest, dividend and increased values since the date of the death of the said deceased are under the value of Rs.

ANNEXURE A.

Valuations of the Moveable and Immoveable Property of the deceased abovenamed.

- | | | | | | |
|----|--|-----|-----|-----|---|
| 1. | Cash in the house | ... | ... | Rs. | . |
| 2. | Cash in the Banks— | | | | |
| | (here insert particulars), <i>e.g.</i> , and standing to | | | | |
| | credit of current account in the Bank of— | | | „ | |
| | amount due on a fixed Deposit Note No. | | | | |
| | dated | | | „ | |
| | in the Bank of | | | | |
| | Interest due on the said deposit Note | ... | | „ | |
| 3. | Household goods—Valued at | ... | ... | „ | |
| | (such as furniture, horses, etc.) | | | | |
| 4. | Wearing apparel—Valued at | ... | ... | „ | |
| 5. | Books—Valued at | ... | ... | „ | |
| 6. | Plate—Valued at | ... | ... | „ | |
| 7. | Jewels—Valued at | ... | ... | „ | |

8.	Property in Government Securities transferable at Public Debt Office—		Rs.
	3½ % G. P. Note of the	per cent loan of	
	for Rs.	the market value	
	thereof being at	per cent	...
	Interest due on above from	to	...
9.	Immoveable Property—		
	House No.	situate at	...
	The annual assessment of which is		...
	at 20 years' purchase		...
	Rent due in respect of above from		...
	(If there be no assessment full particulars should be inserted, giving value.)		
10.	Leasehold Property—		
	(Insert particulars.)		
11.	Property in Public Companies—		
	10 shares (ordinary) of Rs. 100 each in		
	(name Company), valued according to		
	market rate at Rs.	per share	...
	(Dividends due on above.)		
12.	Policy of Insurance--		
	(Set out particulars.)		
13.	Money out on mortgage and other securities such as bonds, mortgages, bills, notes, etc.		
14.	Book debts.		
15.	Stock in trade.		
16.	Other property not comprised under the foregoing heads—		
		Total	...
	Deduct as shown in annexure B		...
		Net Total	...

Sworn by the said
at on the day of
Before me

FORM No. 20.

FORM OF AFFIDAVIT WHERE ATTESTATION CLAUSE IS NOT SUFFICIENT.

High Court, etc.

In the Goods of A. B.

I (C. D.) residing at _____ make oath and say as follows :—

1. That I am one of the attesting witnesses to the last Will and Testament of the deceased abovenamed and which Will bears date the _____ day of _____ .

2. That the Will referred to in the last preceding para. was executed by the deceased on the _____ day of _____ and the signature appearing at the foot of the Will is in the handwriting of the said deceased.

That I was present at the time the deceased affixed his signature to the said Will and such signature was affixed in my presence and in the presence of (name) the other attesting witness.

That both of us namely myself and the said (other attesting witness) put our signatures as attesting witnesses to the said Will in the presence of the said deceased and in the presence of each other.

Sworn by the said
' at _____ this _____ day of _____
Before me _____

FORM No. 21.

AFFIDAVIT WHERE WILL IS SIGNED IN ATTESTATION CLAUSE.

High Court, etc.

In the Goods of A. B.

I (C. D.) residing at _____ make oath and say as follows :—

1. That I am one of the attesting witnesses to the last Will and Testament of A. B. the deceased abovenamed.

2. That the said testator executed the said Will on the day of _____ by signing his name in the attestation clause of the said Will as the same now appears, but it was intended by the testator that such signature should be his final signature to his Will.

That the signature above referred to was affixed in my presence, and in the presence of _____ the other attesting witness both of us being present at the same time and we thereupon signed our names in the presence of the testator as attesting witnesses.

Sworn by the said

at _____ in the

Before me

day of }

FORM No. 22.

AFFIDAVIT PROVING EXECUTION WHERE ATTESTING WITNESSES
ARE DEAD.

High Court, etc.

In the Goods of A. B.

I (explain who person is making affidavit) make oath and say as follows :—

1. That I was well acquainted with the deceased above-named.

2. That I was also acquainted with the deceased's handwriting and had frequently seen him write during his lifetime and thereby became acquainted with the manner and mode in which the deceased signed his name.

3. That I have carefully examined the document hereto annexed and marked with the letter A, which is the last Will of the deceased abovenamed and have also observed the signatures of C. D. & E. F. the attesting witnesses.

4. That the attesting witnesses to the said Will are both dead.

5. That I was acquainted with the attesting witnesses abovenamed and also with their respective handwritings and I verily

believe that the signatures C. D. & E. F. appearing in the Will are in the proper handwritings of the said C. D. & E. F.

6. That I have also carefully examined the signature of the deceased appearing at the foot of the said Will, and I say that such signature is in the proper handwriting of the said deceased.

7. That I make the statements contained in the foregoing paras. from my own personal knowledge of the signatures of the deceased and the said attesting witnesses.

Sworn by the said
at this day of }
Before me

1. It is not always possible to obtain an affidavit from one person who is acquainted with the signatures of the deceased and the attesting witnesses and in such cases either separate affidavits should be obtained or if more convenient joint affidavit. Each deponent speaking to the various signatures he is acquainted with.

2. It is also advisable to obtain an affidavit from some of the relations of the deceased speaking to his handwriting.

3. Affidavits will of course vary according to the circumstances of each case.

FORM No. 23.

AFFIDAVIT IN PROOF OF EXECUTION IN THE ABSENCE OF ATTESTING WITNESSES.

High Court, etc.

In the Goods of A. B.

I (C. D.) residing at make oath and say as follows :—

1. I am the executor named in the last Will and Testament of the deceased abovenamed.

2. That I was well acquainted with the deceased for many years and have frequently seen him write and thereby became

well acquainted with his handwriting and the mode or manner in which he signed his name and I further say that I have carefully examined his Will dated the day of which is now produced to me and marked with the letter A and the signature appearing at the foot thereof is in the proper handwriting of the said deceased.

3. That I was also acquainted with the two attesting witnesses to the said Will namely D. E. & F. G. and am also acquainted with their handwriting and I say that the signatures D. E. & F. G. are in the proper handwritings of the said attesting witnesses.

4. That I have also made enquiries and have ascertained that there was no one else present except the said D. E. & F. G. at the time the deceased executed his said Will.

5. (Here account for the absence of the attesting witnesses.)

Sworn by the said
 at this day of }
 Before me

1. It sometimes happens that the whereabouts of attesting witnesses cannot be ascertained and in such cases a para. should be inserted showing what enquiries have been made regarding their whereabouts.

2. *Vide* also remarks at foot of previous form.

FORM No. 24.

AFFIDAVIT BY ATTESTING WITNESS AS TO ALTERATIONS IN A WILL.

High Court, etc.

In the Goods of A. B.

I (C. D.) residing at make oath and say as follows :—

1. That I am one of the attesting witnesses to the last Will and Testament of the deceased abovenamed.

2. That I have carefully examined the said Will dated the _____ day of _____ and have also noted the words (fill in particulars) appearing on the _____ page of the said Will.

3. That the said testator executed his said Will on the said date mentioned in the last para. by signing his name at the foot thereof in my presence, and in the presence of E. F. the other attesting witness both of us being present at the same time and we attested the signatures of the said testator in his presence and I further say that the said recited interlineation was written and made in the said Will before the testator executed the same.

Sworn by the said
at this day of
Before me

FORM No. 25.

AFFIDAVIT AS TO FOREIGN LAW.

High Court, etc.

In the Goods of A. B.

I (C. D.) residing at _____ make oath and say as follows :—

1. That I am (here insert particulars).
2. I am conversant with the laws and regulations of
regarding the execution of Wills of deceased persons resident
in .

3. I have referred to the last Will and Testament of the deceased abovenamed bearing date the day of and say that such Will was made and executed in conformity with the laws and regulations of and I further say that such Will is valid in accordance with such laws.

Sworn by the said
at this day of
Before me

FORM No. 26.

FORM OF RENUNCIATION BY EXECUTOR.

Whereas A. B. of deceased died on the
day of at having previously thereto duly made
and executed his last Will and Testament bearing date the
day of and whereof he appointed me undersigned his
executor.

Now I the said C. D. do hereby declare that I have not in any way intermeddled in the estate and will not hereafter do so and I hereby renounce all my right title claim and demand to the probate and execution of the said Will.

Signed by the said C. D. }
at this day of }
in the presence of }

FORM No. 27.

RENUNCIATION OF GUARDIANSHIP.

Whereas A. B. of deceased died on the
day of at having previous thereto duly made
and executed his last Will and Testament bearing date the
day of whereof he appointed C. D. sole executor
and whereas G. F. the legatee named in the said Will is an infant
and by the terms of the said Will the said C. D. was appointed
the guardian of the said infant.

Now I the said C. D. do hereby renounce all my right and title in and to the guardianship of the said infant.

Signed by the said C. D. }
this day of }
in the presence of }

FORM No. 28.

RENUNCIATION AND CONSENT BY FATHER.

Whereas A. B. of _____ deceased died on the
day of _____ at _____ intestate and having me the under-
signed his father him surviving as his sole next-of-kin.

Now I the said C. D. as such father and sole next-of-kin
as aforesaid do hereby renounce all my right and title in and to the
Letters of Administration of the estate of the said deceased and I
do hereby consent that Letters of Administration of the said estate
be granted to E. F. my lawful son.

Signed by the said
this _____ day of _____
in the presence of _____

}

FORM No. 29.

CAVEAT.

High Court, etc.

In the Goods of A. B.

Let nothing be done in the goods of the deceased abovenamed
who died on the _____ day of _____
at _____ without notice to C. D. of _____ who claims an
interest in the said estate or to his solicitors E. F. of _____

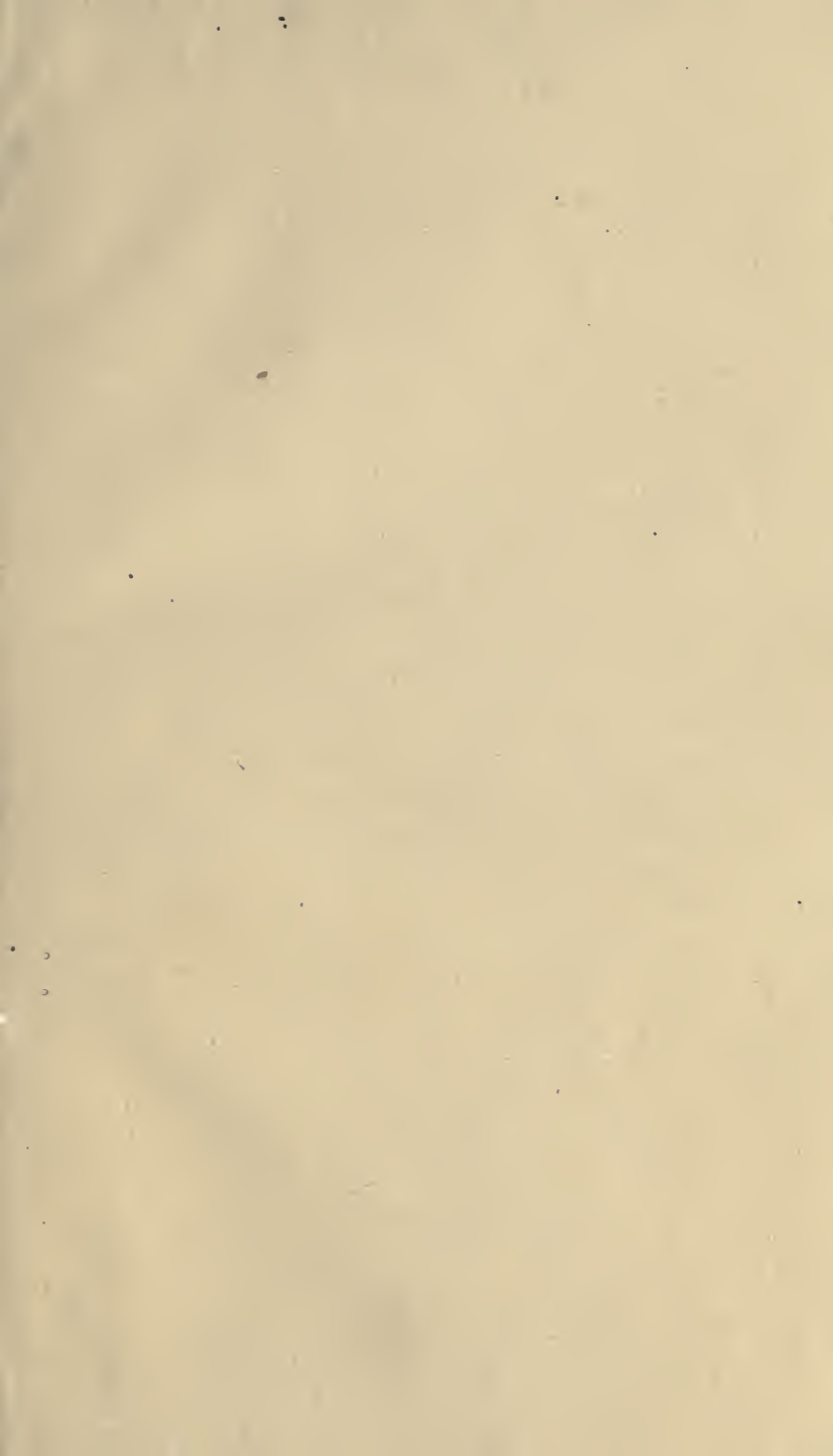
Dated this _____ day of _____

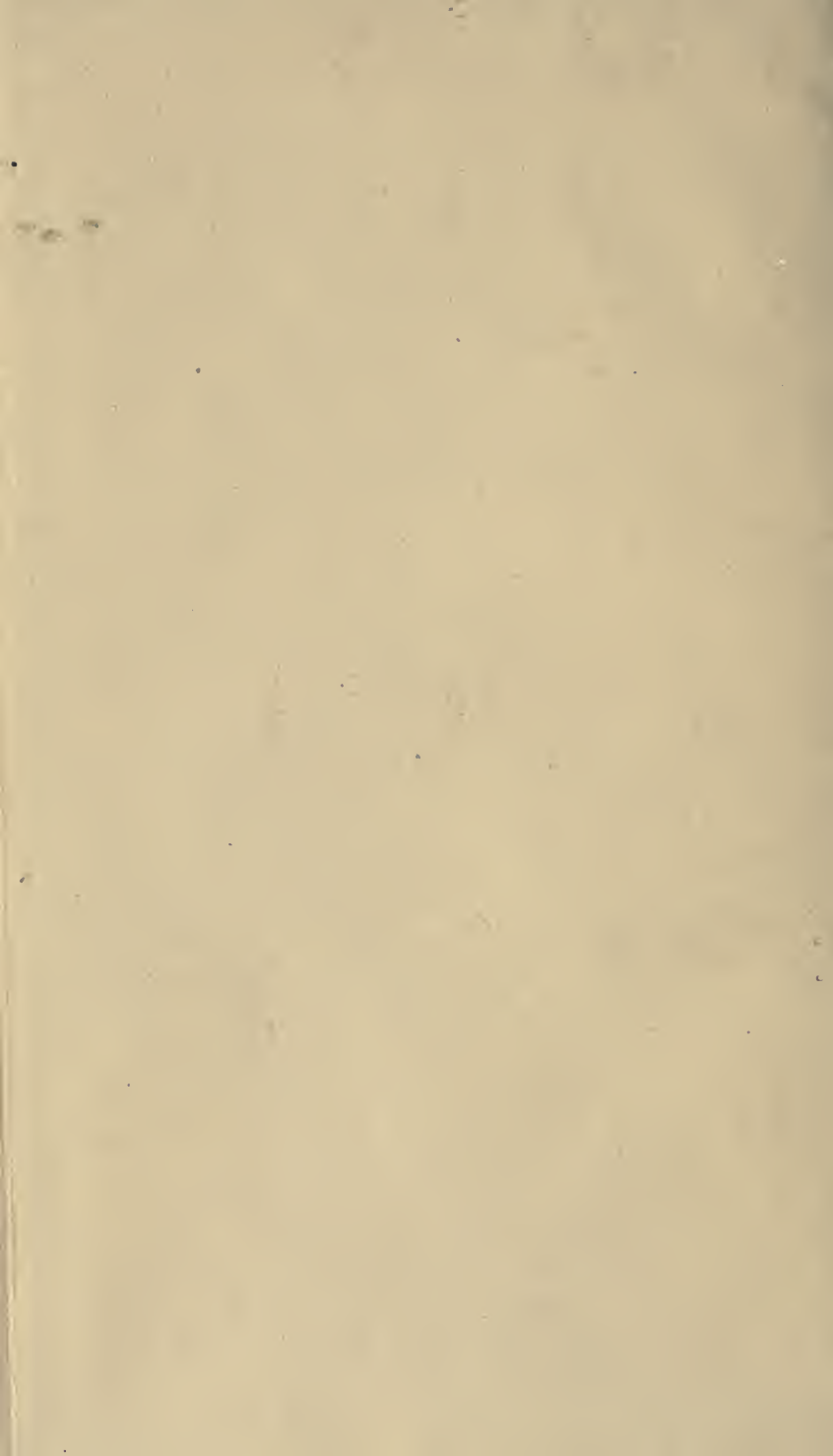
(Signature of firm of solicitors.)

FORM No. 30.

SHORT FORM OF POWER-OF-ATTORNEY TO TAKE
ADMINISTRATION.

To all to whom these presents shall come A of
sends greeting. Whereas B. of _____ deceased died at _____ on
the _____ day of _____ leaving him surviving A his lawful
widow and relict. Now these presents witness that she the said A
doth hereby nominate constitute and appoint the said E of _____





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